

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment Delivered on: 17.12.2019

+ W.P.(CRL.). 2695/2019

Parminder Singh And Anr.

..... Petitioner

Through: Mr. Ajay Khanna, Advocates.

versus

STATE & Anr

..... Respondents

Through: Mr. Avi Singh, ASC with Mr.
Divyanshu, Adv. with SI
Surendra Sharma, Crime
Branch.

HON'BLE MR. JUSTICE BRIJESH SETHI

J U D G M E N T

BRIJESH SETHI, J (oral)

1. This writ petition under Article 226 of the Constitution of India r/w Section 482 Cr.P.C. is filed by the petitioner for quashing of FIR No.86/16 u/s 420/34 IPC registered with PS Crime Branch, Delhi and all the subsequent criminal proceedings on account of the settlement agreement dated 23.10.2018 entered before Delhi Mediation Centre, Tis Hazari Courts, Delhi.

2. While praying for quashing of FIR and the criminal proceedings emanating there from, the petitioner has pleaded that in the present matter a complaint was received by the police officers in regard that petitioners has entered into money dispute with respondent no.2 but due to unfortunate circumstances, the petitioners have failed to repay the amount and due to misunderstanding between the parties a criminal case was registered against the petitioners and they were arrested on 04.10.2018 in FIR no. 86/2016 registered on 03.06.2018 u/s. 420/34 IPC. At the time of granting bail to the petitioners, the matter was referred to Mediation Centre, Tis Hazari Courts, Delhi and it was settled on 23.10.2018 and statement of respondent no.2 was recorded before the Ld. MM, West District, Tis Hazari Court Complex and pursuant to the settlement, Ld. Trial Court has granted interim bail to the petitioners.

3. It is submitted that in terms of settlement, respondent no.2 received the payment of Rs.9,50,000/- on 20.07.2019 and the last remaining amount was received by respondent no.2 on 23.07.2019

and he made a statement that he has received the entire payment and he has no objection if petitioner were given regular bail.

4. It is submitted that as the matter has been settled between the parties, no useful purpose is likely to be served by continuing the aforesaid proceedings arising out of the aforesaid FIR No.86/2016, u/s. 420/34 IPC, PS Crime Branch and it is lastly prayed for the quashing of the FIR No.86/2016, u/s. 420/34 IPC, PS Crime Branch.

5. Ld. ASC for the state has opposed the petition and submitted that the quashing of FIR cannot be allowed in view of the law laid down by Hon'ble Supreme Court in *Parbathhai Aahir @ Parbatbhai Bhimsinhbhai Karmur & Ors. Vs. State of Gujarat & Anr., 2017 SCC Online SC 1189*.

6. I have heard the learned counsel for the petitioner and also gone through the record.

7. The instant FIR No.86/2016, u/s. 420/34 IPC, PS Crime Branch was registered on the basis of statement made by complainant/respondent No.2. The question which now arises for consideration is whether the fact that the parties have settled the dispute between themselves should be a reason good enough to

quash the FIR registered under Sections 420/34 IPC and consequential proceedings emanating there from.

8. In the decision reported as ***Parbathhai Aahir @ Parbatbhai Bhimsinhbhai Karmur & Ors(Supra)***, the Hon'ble Supreme Court has discussed the scope and power of the High Court under Section 482 CrPC to quash the criminal proceedings on the basis of settlement and has laid down the following law:-

(i) Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;

(ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

(iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

(iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court; (v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

(vi) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

(vii) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

(viii) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;

(ix) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the

possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and
(x) There is yet an exception to the principle set out in propositions (viii) and
(ix) above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance. (emphasis supplied)

9. In **Narinder Singh & Ors. Vs. State of Punjab & Anr., Criminal Appeal No.686/2014 arising out of SLP(Criminal) No.9547/2013**, the Hon'ble Supreme Court has again reiterated the law that in respect of offences against society, it is the duty of the state to punish the offender. Hence, even when there is a settlement, the view of the offender and victim will not prevail since if it is in the interest of society that the offender should be punished to deter others from committing a similar crime.

10. In **Gian Singh vs. State of Punjab** (2012) 10 SCC 303, the Hon'ble Supreme Court has held that High Court can quash a criminal proceeding or FIR or complaint in exercise of its inherent

jurisdiction. Though inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed.

11. Thus, in view of the above law laid down by the Hon'ble Supreme Court, settlement in cases where nature of offence is serious in nature cannot be quashed even if these are settled by the accused and the victim, by invoking the jurisdiction of High Court under Section 482 CrPC.

12. In the case in hand, the FIR 86/2016, u/s. 420 IPC, PS Crime Branch was registered against the petitioners on the complaint of Sh. Bupender Kumar Kaushik, complainant/ respondent no.2 alleging cheating of Rs. 94,00,000/- (Rs. Ninety four lacs) on pretext of dealing with a precious stone, "Rice Puller". Certificates establishing the authenticity of the "Rice Puller" which was

provided by the petitioners were got verified from the Defence Research and Development Organization, Balasore, Orrisa and were found to be forged which is clear from the letter issued by DRDO and it runs as under;

“Fax :06782-272072

**No.ITR/Admin/5071
Government of India,
Ministry of Defence
Integrated Test Range
Chandipur, Balasore.
ODISHA-756025**

To

O/o. The Asst. Commissioner of Police,
Inter State Cell,
Crime Branch
Chankya Puri
New Delhi.

[Kind Attn: Shri Gurmeet Singh, SI]

Subject: Notice U/S 91 CrPC.

Reference: O/o. The Asst. Commissioner of Police, ISC, CB, Chanyapuri,
New Delhi's Letter dated 24.09.2018 in Case FIR No. 86/2016
U/S 420/34 IPC PS Crime Branch, New Delhi.

Sir,

It is hereby confirmed that the attached certificates with your letter under reference were not issued by this establishment.

2. Since the certificates were not issued by this establishment, we can not confirm the genuineness of the same.

3. It is also intimated that Dr. Utsav Datta and Mr. Muku Prasad are/ were not posted at this establishment during the period mentioned in your letter under reference. Hence, this establishment cannot confirm whether the signatures belong to the above named persons.

This issues with the approval of Director, ITR.

Yours faithfully,

(A P Ghosh)
CAO
For Director, ITR”

13. Thus, documents of DRDO, Ministry of Defence have been forged and used in the present case by the petitioners. The offence committed by the petitioners is, therefore, serious in nature and in fact it is not an offence between two private parties only but an offence against the society as well. Petition for quashing of such kind of FIR in which documents of DRDO, Ministry of Defence are forged and used cannot be entertained. Such kind of offences cannot be taken lightly and allowed to be quashed as it affects the functioning of the Government and shatters the trust of the public regarding public documents. Facts and circumstances, of the case, therefore, do not warrant quashing of present FIR No.86/2016, u/s. 420/34 IPC, PS Crime Branch. The petition is, therefore, dismissed.

BRIJESH SETHI, J

DECEMBER 17, 2019

Amit