

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

Date of Order: January 23, 2019

+ **CRL.M.C. 363/2019 & CRL.M.A. 1567/2019**

SUHANNA SETHI

.....Petitioner

Through: Mr. Laksh Khanna, Advocate

versus

STATE & ANR

.....Respondents

Through: Mr. Izhar Ahmad, Additional
Public Prosecutor for respondent-
State with SI Avinash Kumar
Mr. Bishan Singh, Advocate with
respondent No. 2 in person

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

Quashing of FIR No. 287/2016, under Sections 279 and 338 of IPC 1860 registered at police station Chitranjan Park, Delhi is sought on the basis of 'Memorandum of Understanding' of 21st January, 2019 and on the basis of affidavit of 21st January, 2019 of respondent No.2, who is father of injured-Vedant Singh aged about 8 years, who had suffered grievous injuries in this accident.

Learned counsel for petitioner submits that the accident in question had taken place due to bonafide error of judgment. Learned counsel for petitioner submits that complainant/first informant of FIR in question is real *uncle/Tau* of injured and due to his pre-occupation in

Hyderabad, he is unavailable and he has instructed to give a no objection to quashing of this FIR.

Upon notice, Mr. Izhar Ahmad, learned Additional Public Prosecutor for respondent-State submits that respondent No.2-father of injured is present in the Court and he has been identified to be so, by SI Avinash Kumar, on the basis of identity proof produced by him.

Respondent No.2, present in the Court affirms the contents of the Memorandum of Understanding of 21st January, 2019 and his affidavit of 21st January, 2019 and submits that the complainant party has been duly compensated and the complainant/first informant of this FIR submits that the proceedings arising out of this FIR be brought to an end.

Supreme Court in *Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Vs. State of Gujarat* (2017) 9 SCC 641 has reiterated the parameters for exercising inherent jurisdiction under Section 482 Cr.P.C. for quashing of FIR / criminal complaint, which are as under:-

“16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions:

16.1. 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.

16.2. 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.

16.3. 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.

16.4. 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.

16.5. 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.

16.6. 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.

16.7. 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 insofar as the exercise of the inherent power to quash is concerned.

16.8. 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.

16.9. 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

16.10. There is yet an exception to the principle set out in propositions 16.8. and 16.9. 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.”

In the facts and circumstances of this case, it is deemed appropriate to bring an end to the proceedings arising of instant FIR. Subject to petitioner depositing costs of ₹50,000/- with *Prime Minister's National Relief Fund* within two week from today and upon placing on record the receipt of deposit of costs within a week thereafter and upon petitioner placing on record affidavit of complainant/first informant- Kirpal Singh before the trial court on or before the date fixed i.e. 7th February, 2019 as well as on record of this case, the proceedings arising out of FIR in question be brought to an end by the trial court.

This petition and the application are accordingly disposed of.

Dasti.

(SUNIL GAUR)
JUDGE

JANUARY 23, 2019

v