

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

+ CRL.M.C. 53/2021

Date of decision: 1st February, 2021

IN THE MATTER OF:

STORAY SAYEDI & ANR

..... Petitioners

Through **Mr. Rajeev Chhetri, Advocate**

versus

GOVT OF NCT OF DELHI & ANR

..... Respondents

Through **Mr. Hirein Sharma, APP for State**

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

SUBRAMONIUM PRASAD, J.

1. This petition under Section 482 of the Code of Criminal Procedure (hereinafter referred to as “the Code”) has been filed for quashing FIR No.312/2020 dated 25.08.2020, under Sections 297, 337 IPC registered at Police Station Lajpat Nagar.

2. The respondent No.2 is the complainant. The allegation in the FIR is that on 21.08.2020, at about 7:30 P.M the complainant/respondent No.2 was hit by a black colour Mercedes Benz, bearing No. DL4CNA2796, which was being driven by the petitioner. The complainant states that he was taken to the AIMS Trauma.

3. The FIR was registered on the statement of the complainant. The MLC report says that the complainant/respondent No.2 was hit in an accident and that he suffered grievous injuries. The investigation revealed that the car was owned by Mr. Gulinder Singh/petitioner No.2. The investigation also revealed that the car was being driven by the petitioner

herein.

4. The petitioner No.1 was arrested and was released on bail. The investigation revealed that the petitioner No.1 did not have a valid driving license, further the car was also not insured. Charge-sheet under Section 279/338 IPC read with Sections 3/181, 146/196 has been prepared and submitted to the court for trial.

5. The present petition has been filed on the ground that the complainant and the accused have amicably settled the dispute. The compromise deed dated 20.10.2020, has been filed along with the paperbook. It is stated in the compromise deed that the complainant has been paid a sum of Rs.35,000/-. The complainant has also filed an affidavit (page 49 of the paperbook) stating that he has settled the matter with the accused and seeks indulgence of this court in quashing FIR No.312/2020 dated 25.08.2020, registered at Police Station Lajpat Nagar.

6. The offences under Section 279 and 338 IPC are non-compoundable offences but the offence under Sections 3/181, 146/196 of the Motor Vehicles Act, 1988 are compoundable under Section 200 of the Motor Vehicles Act, 1988. Section 200 of the Motor Vehicles Act provides that offence under Section 181 and 196, either before or after the institution of the prosecution, can be compounded by such officers or authorities and for such amount as the State Government may, by notification in the Official Gazette, specify in this behalf.

7. It is well settled that the High Court in exercising its powers under Section 482 Cr.P.C can compound offences which are non-compoundable under the Code on the ground that there is a compromise between the

accused and the complainant, however, the Supreme Court has laid down parameters and guidelines for High Court while accepting settlement and quashing the proceedings. In Narinder Singh & Ors v. State of Punjab & Anr., reported as (2014) 6 SCC 466, the Supreme Court has observed as under:

"29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

(i) ends of justice, or

(ii) to prevent abuse of the process of any court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to be exercised in those

prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases."

(emphasis supplied)

8. Similarly, in Parbatbhai Aahir & Ors v. State of Gujarat & Anr., reported as **(2017) 9 SCC 641**, the Supreme Court has observed 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."

(emphasis supplied)

9. The instant case is one of road accident. The complainant was hit by

the petitioner No.1 who did not have a valid driving license and the car belongs to the petitioner No.2. The parties have compromised and the complainant has stated that they have amicably settled the entire disputes.

10. The complainant/ respondent No.2 has joined the proceedings through video conferencing. He has accepted that he does not want to proceed ahead with the complaint.

11. This court is of the opinion that in view of the settlement this court should exercise its power under Section 482 Cr.P.C and quash the proceedings.

12. In view of the facts and circumstances, the petition is quashed. The petitioner No.1 is warned not to drive a motor car without a valid license and the petitioner No.2 is warned not to repeat the offence under Section 146 of the Motor Vehicles Act. With these warnings to the petitioners No.1 and 2 the FIR No.312/2020 dated 25.08.2020, under Sections 297, 337 IPC registered at Police Station Lajpat Nagar and all the proceedings emerging therefrom are quashed. The petition is disposed of in the above mentioned terms.

SUBRAMONIUM PRASAD, J.

FEBRUARY 01, 2021

rs