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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: 23.12.2020

Pronounced on: 07.01.2021

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CRL.M.C. 1555/2020 & CRL.M.A. 17929/2020 (for impleadment)

VIVEK KUMAR & ORS.

..... Petitioners

Through

**Mr. Atul Parmar and Mr. Abhishek
Parmar, Advocates**

versus

STATE OF NCT/ DELHI & ORS.

..... Respondents

Through

**Mr. Sanjeev Sabharwal, APP for
State**

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

Crl. M.A. 17929/2020

This is an application filed by the Applicants namely Navneet Kumar Chhoker and Dhruv Chhoker seeking impleadment in the present petition.

For the reasons stated in the application, the same is allowed. The applicants are impleaded as Petitioner Nos. 2 and 3 in the petition.

Amended memo of parties is taken on record.

CRL.M.C. 1555/2020

1. Present petition has been filed under Section 482 Cr.PC by the Petitioners herein for quashing of FIR No.102/2020 dated 13.03.2020 under Sections 308/34 IPC, PS Jyoti Nagar, based on

compromise/settlement Deeds between the Petitioners and the complainants/Respondent Nos.3 and 4 herein.

2. The allegations against the Petitioners as set out in the Status Report filed by the State are that the complainants namely Saurabh and Rohit Dhaka while on their way back from a park of 'S' Block, West Jyoti Nagar, at about 8.30 p.m., saw a boy namely Vivek Chaudhary who resides at 'D' Block Street No.9, West Jyoti Nagar armed with an iron rod. He alongwith his pet dog came to the complainants alongwith two unknown companions having sticks and told the complainants that they had earlier escaped on *Holi* but today they will be taught a lesson and before the complainants could understand the situation, both the companions of Vivek grabbed the complainants from their elbows. Vivek hit the complainants with iron rods several times and also unleashed his dog over one of the complainants because of which he started bleeding. Due to the noise, several persons came out of their houses, upon which the Petitioners slipped away. Injured were taken to the hospital and treated. Thereafter, the police was informed and FIR was registered.

3. Initially, the present petition was filed by Vivek Kumar on the basis of a Settlement Deed executed on 27.06.2020 between him and the two complainants. Affidavits have also been filed by the complainants in support of the settlement and quashing of FIR.

4. During the pendency of the petition, an Additional Status Report was filed on the basis of a supplementary written statement given by one of the complainant. It was brought out in the Status Report that the two other alleged assailants who were unidentified at the time of registration of the FIR, had been traced and identified. Their names were mentioned

in the Status Report alongwith their addresses and respective dates of birth. As per the Status Report, the school records were verified and it was found that both were juveniles at the time of commission of the alleged offence. Subsequent to the filing of the said Status Report, the two applicants filed an impleadment application for being impleaded in the present petition and seeking a relief of quashing the FIR on the basis of a settlement entered into between them and the complainants on 16.12.2020. Copy of the Settlement Deed was placed on record.

5. The complainants/Respondent Nos.3 & 4 appeared in Court and submitted that the disputes between the parties have been amicably resolved. As per the Compromise Deeds, the said Respondents have amicably settled the matter, without any force and coercion and without seeking any compensation. It is further stated in the compromise deeds that the respondents have no objection to quashing of the FIR. Respondent Nos. 3 and 4 have affirmed the contents of the aforesaid Settlement Deeds and have also filed affidavits supporting the petition. MLC has been placed on record by the State, which reveals that the injury suffered by the complainants was simple.

6. Learned counsel for the Petitioners submits that the Petitioners are young boys. While Petitioner No.1 is 21 years of age and is currently studying in BCA Course, Petitioner Nos. 2 and 3 are in school. They have no past criminal record and belong to good families. The complainants have without any force or coercion entered into an amicable settlement with the Petitioners and support the relief sought by the Petitioners in the present petition seeking quashing of the FIR and thus the FIR be quashed.

7. Learned APP for the State has opposed the petition on the ground that the allegations against the Petitioners are serious in nature as they are alleged to have assaulted the complainants with iron sticks causing injuries to them including unleashing the dog, resulting in dog bites. It is argued that no case of quashing is made out.

8. In ***Gian Singh vs. State of Punjab & Anr., (2012) 10 SCC 303***, the Supreme Court observed that while dealing with the issue of quashing an FIR when the parties enter into an amicable resolution of disputes, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceedings despite a compromise between the victim and the wrong doer and if the answer to the question is in the affirmative, the High Court would be within its jurisdiction to quash the criminal proceedings. Relevant paragraphs are as follow:-

“58. Where the High Court quashes a criminal proceeding having regard to the fact that dispute between the offender and victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrong doing that seriously endangers and threatens the well-being of society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the Court. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under

special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between offender and victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.

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61. The position that emerges from the above discussion can be summarized thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. 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 FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard

to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominately civil flavor stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

9. In a later judgement in the case of ***Narinder Singh & Ors. vs. State of Punjab & Anr. (2014) 6 SCC 466***, the Supreme Court reiterated the same proposition and the relevant part of the judgement in the present context is as follows :-

“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.”

10. There is no doubt on the proposition that the inherent powers of a High Court under Section 482 Cr. PC should be exercised sparingly and with great caution. Needless to state that only when the Court comes to a conclusion from the facts and circumstances of the case that continuing the criminal proceedings would result in injustice or would manifest in abuse of the process of the Court, that it would exercise the inherent power and quash the proceedings and not otherwise. This is so held by the Supreme Court in the case of *State of Maharashtra through CBI vs. Vikram Anatrai Doshi, (2014) 15 SCC 29* and in the case of *Inder Mohan Goswami vs. State of Uttaranchal, (2007) 12 SCC 1*. It is thus equally well settled that in a case where the High Court is convinced that the alleged offences are personal in nature and do not affect public peace or tranquility and that quashing of the proceedings on the basis of a compromise or settlement would secure the ends of justice, it should exercise the power to quash the proceedings. Looked at from another angle, in such cases, even pursuing prosecution would be sheer waste of time and energy.

11. It is true that the offence in the present case is under Section 308 IPC which is a non-compoundable offence, however, in the case of *B.S. Joshi vs. State of Haryana, (2003) 4 SCC 675*, the Supreme Court had observed that even though provisions of Section 320 Cr. PC would not apply to offences which are not compoundable, it did not limit or affect the powers under Section 482 Cr. PC. The Court held that if for the

purpose of securing the ends of justice quashing of FIR becomes necessary, Section 320 Cr. PC would not be a bar to the exercise of such power. In other words, the Supreme Court found it just to exercise the power under Section 482 Cr. PC to quash criminal proceedings in view of the special facts of the case, even where the offences were non-compoundable, to secure ends of justice.

12. In the present case as noted above, Respondent Nos.3 and 4 have entered into an amicable settlement with the Petitioners and resolved their disputes. The settlement deeds are on record alongwith the affidavits in support of the petition. The said Respondents have been identified by the learned APP. The petitioners are young boys going to College and School, respectively and the nature of injury allegedly inflicted on the complainants is simple. It is undisputed by the State that the Petitioners are not involved in any other criminal case and the antecedents are clear.

13. Having heard the counsel for the Petitioners and the learned APP and looking to the facts and circumstances of the case, I am of the view that this is a fit case to exercise jurisdiction under Section 482 Cr.PC, as it would be futile if the proceedings are carried on further and quashing of the FIR would secure the ends of justice. As observed by a Coordinate Bench of this Court in ***Anand Singh & Ors. vs. State of NCT of Delhi & Anr., 2016 SCC Online Del 5292***, the incorporation of inherent powers under Section 482 Cr. PC is to deal with situation in the absence of expressed provisions of law, to secure ends of justice such as, where the process is abused or misused; where ends of justice cannot be secured; where process of law is used for unjust or unlawful object; to avoid

causing harassment to any person or to avoid delay of legal process in the delivery of justice.

14. In the facts and circumstances of the case and in view of the affidavits given by Respondent Nos.3 and 4, the FIR in question warrants to be quashed alongwith the proceedings emanating therefrom.

15. Accordingly, the petition is allowed and FIR No.102/2020 dated 13.03.2020 under Sections 308/34 IPC registered at PS Jyoti Nagar and the proceedings emanating therefrom are quashed against the Petitioners. Petitioners shall deposit a sum of Rs.5000/- each with the Delhi High Court Advocates Welfare Trust as costs.

(JYOTI SINGH)
JUDGE

JANUARY 7th, 2021
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