

Form J(1)

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

I.A. No : CRAN/1/2022

In

C.R.R. 175 of 2022

Gaurav Churiwal & Anr.

Vs.

The State of West Bengal & Anr.

**For the petitioners : Mr. Ayan Bhattacharjee, Adv.
Ms. Sanchari Chakraborty, Adv.
Ms. Tanishka Khandelwal, Adv.**

For the State : Mr. Swapan Banerjee, Adv.

Heard on : 25.07.2022

Judgment On : 25.07.2022.

Bibek Chaudhuri, J.

The petitioner and the private opposite party No.2 have filed a joint application for effectuating compromise and arrived by and between the parties out of Court and on the basis of such compromise, it is prayed by the parties that the proceedings in G.R. No.1048 of 2021 arising out of Electronic Complex Police Station Case No.177 dated 29th August, 2021 under Sections 341/420/406/506/34 of the Indian Penal Code instituted against the present petitioners on

the basis of a written complaint submitted by the opposite party No.2 may be quashed.

The opposite party No.2/defacto complainant lodged a written complaint with the Officer-in-Charge, Electronic Complex Police Station stating, inter alia, that the petitioner being the son of Pawan Kumar Churiwal (died intestate on 12.01.2021) had prevented the opposite party no. 2 and his men and agents from entering the office of MACNEILL, which is a rental premises. Upon instruction of the petitioner, the caretaker did not allow the staff of MACNEILL to have access to the office premises.

The de-facto complainant further alleged that the petitioner raised rent bills on MACNEILL of the two floors without any authority. On the basis of the said complaint, police registered Electronic Complex Police Station Case No.177 dated 29th August, 2021 under Sections 341/420/406/506/34 of the Indian Penal Code.

The instant revision has been filed by the son of late Pawan Kumar Churiwal for quashing the above-mentioned criminal proceedings instituted against him.

Another case has been filed against the petitioner by his Grandmother, Annapurna Churiwal in Charu Market P.S. Case no. 126 dated 24th August, 2021 under sections 120B/406/420/209 of the IPC, alleging that the petitioner and her daughter-inlaw, Anju Churiwal

executed false and incorrect affidavit from the court of Learned Metropolitan Magistrate as the only legal heirs of deceased Pawan Kumar Churiwal.

During pendency of the instant revision, dispute has been amicably settled by and between the parties. Therefore, the parties have filed a joint petition for compromise.

The question as to whether cognizable and non-compoundable cases where out of Court settlement is arrived at, can be dropped and proceeding can be quashed under Section 482 of the Code, came up for consideration before the Hon'ble Supreme Court in ***Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur & Ors. Vs. State of Gujarat & Anr.*** Reported in ***(2017) 9 Supreme Court Cases 641***. In Paragraph 16 of the said report, the Hon'ble Supreme Court laid down the broad principles which governs the power of the High Court to compound a non-compoundable offence under Section 482 of the Cr.P.C. as hereunder:-

- (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 recognizes 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 a 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 plentitude it has to be exercised; (i) to secure 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 the 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 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) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essential civil flavour may in appropriate situations fall for quashing where parties have settled the dispute."

Electronic Complex Police Station Case No.177 dated 29th August, 2021 was registered on the basis of a dispute for non-access in the office premises of MACNEILL. The criminal case involving offence under Sections 420/406/506 of the Indian

Penal Code arose from commercial, financial, mercantile or similar transactions with essential civil flavour. In view of guideline (vii), the further proceedings in Electronic Complex Police Station Case No.177 and corresponding to G.R. No.1048 of 2021 may be quashed on the basis of the above-mentioned guideline of the Hon'ble Supreme Court.

Therefore, the joint compromise petition is accepted. Further proceedings of Electronic Complex Police Station Case No.177 dated 29th August, 2021 under Sections 341/420/406/506/34 of the Indian Penal Code corresponding to G.R. No.1048 of 2021 be quashed.

The instant revision is disposed of.

(Bibek Chaudhuri, J.)

***Mithun De/
A.R. (Ct).
SI No.6. D/L.***