

08.08.2022

CRR 1732 of 2022

**Satkartar Shopping Pvt. Ltd. & Ors.
Vs.
The State of West Bengal & Ors.**

Mr. S.K. Basu, Sr. Adv.,
Mr. Soubhik Mitter, Adv.,
Mr. Ranadeb Sengupta, Adv.,
Mr. Sachit Talukdar, Adv.,
Ms. Suveni Banerjee, Adv.

...for the petitioner

Mr. Rudradipta Nandy, A.P.P.,
Ms. Sonali Das, Adv.,

....for the State

Ms. Manju Agarwal, Adv.,
Mr. Bajrang Manot, Adv.

....for the defacto complainant

This is an application for passing appropriate order in view of the compromise arrived at by and between the parties.

It is submitted jointly by the petitioners and the private opposite parties that as a result of commercial and contractual dispute between the parties, the petitioners have been subjected to investigation in respect of Chetla Police Station Case No.42 of 2020 dated 25th February, 2020 under Sections 406/420/467/468/120B of the IPC on the basis of a

written complaint filed by the opposite party No.3 herein.

During the pendency of the case being C.G.R Case No.646 of 2020 arising out of Chetla P.S Case No.42 of 2020, dispute between the parties has been amicably settled. Both the parties have filed a joint petition for compromise and further proceeding of C.G.R Case No.646 of 2020 may be quashed on the basis of the said compromise.

In **Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur & Ors. vs. State of Gujarat & Anr.** reported in **(2017) 9 SCC 641** the Hon'ble Supreme Court was pleased to formulate the following guidelines for recording compromise of a case involving even non-compoundable offence by the High Court under its inherent power under Section 482 of the Code of Criminal Procedure:-

(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.”

I have gone through the FIR filed by the defacto complainant/opposite party No.3 against the petitioners. The opposite party No.3 was compelled to file a written complaint in the jurisdictional police station as a result of commercial and financial dispute between him and the petitioners which is essentially private in nature. The dispute between the parties does not involve financial and economic wellbeing of the state. The petitioners are not involved in any activity akin to financial or economic fraud or misdemeanor.

In view of such circumstances, this Court under the provision of Section 482 of the Code of Criminal Procedure can record the compromise between the parties.

In view of the joint compromise involved at by and between the parties, further proceedings in connection with C.G.R Case No.646 of 2020 arising out of Chetla P.S Case No.42 of 2020 dated 25th February, 2020 under Sections 406/420/467/468/120B of the IPC pending before the learned Chief Judicial Magistrate at Alipore be quashed.

(Bibek Chaudhuri, J.)