

\$~17

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

+ CRL.M.C. 1034/2019 & CRL.M.A. 4151/2019

MITTHAN LAL & ORS.

..... Petitioners

Through: Mr.Prashant Mehta, Mr.Charanpreet
Singh and Mr.Pranav Singh, dvocates

versus

STATE & ANR.

..... Respondents

Through: Mr.Hemant Mehla, APP for the state.
Insp.Surendra Kumar, PS Harsh
Vihar,

%

Date of Decision: 05.12.2022

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. This is a petition for quashing FIR NO. 409/2017 registered under Section 308/452/506/34 IPC at PS Harsh Vihar.
2. Facts, in brief, are that certain disputes and differences arose between the Petitioners, Respondent No. 2 and other family members relating to property bearing No. B-1/13, Gali No. 1, Saboli Extension, Delhi-110093. The FIR was lodged at the instance of Respondent No. 2 wherein it was stated that on 06.10.2017, petitioners forcibly entered the room of respondent no. 2 and started beating her.
3. Learned Counsel for the Petitioners submits that Petitioner no. 1 filed a complaint under the Maintenance and Welfare of Parents and Senior

Citizens Act, 2007 with the District Magistrate and vide order dated 19.01.2018, respondent no. 2 was directed to be evicted from the suit property. Being aggrieved of the order dated 19.01.2018 passed by the District Magistrate, W.P. (C) No.1377/2018 was filed before this Court. This Court vide order dated 16.08.2018 referred the matter to Delhi High Court Mediation and Conciliation Centre wherein parties to dispute entered into a Settlement Agreement dated 04.09.2018. Learned Counsel for the Petitioners submits that in view of the amicable settlement arrived at between the Petitioners and Respondent No. 2, no useful purpose would be served by continuing with the proceedings, therefore, the same is liable to be quashed.

4. Learned APP for the State submits that during the pendency of the present petition, a chargesheet has been filed in the present case. He also states that the complainant is not ready for settlement. Ms. Neha/complainant is present in court and has confirmed the same.
5. Section 482 preserves the inherent powers of the High Court to prevent abuse of the process of any court or to secure the ends of justice. Parties invoke the jurisdiction of the High Court to quash an FIR or a criminal proceeding on the ground that a settlement has arrived. However, while forming an opinion on whether a criminal proceeding or complaint should be quashed in the 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.
6. Supreme Court in the case of *Monica Kumar (Dr.) v. State of UP* (2008) 8 SCC 781 has *inter alia* held that the inherent power of the High Court has a wide ambit and plenitude but it has to be exercised

sparingly, carefully with caution and only when such exercise is justified by the tests specifically laid down in the section itself.

7. The decision as to whether a complaint or FIR 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. 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.
8. The facts of the present case are peculiar in nature. The main argument of the learned counsel for the petitioners is that the parties have entered into the compromise, therefore, the instant FIR and proceedings emanating therefrom are liable to be quashed on the basis of the said compromise. However, the said compromise is disputed by the complainant; respondent no. 2 herein.
9. In the case of ***Ramgopal & Anr. v. State of Madhya Pradesh***, 2021 SCC OnLine SC 834, the Supreme Court has observed that the inherent powers under Section 482 Cr.P.C. is ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.
10. It is therefore clear that this Court should exercise its extraordinary powers under section 482 of the Cr. P.C only when it is satisfied that

the settlement agreement or the compromise between the victim and the offender has been freely and voluntarily executed or reached. In the present facts and circumstances, that is not so because the complainant has stated that she does not wish to settle the dispute.

11. In view of the above facts and circumstances, this Court does not find any merit in the instant petition for exercising its extraordinary jurisdiction for the purpose of quashing the instant FIR as prayed for.
12. The petition along with the pending application is accordingly dismissed.

DINESH KUMAR SHARMA, J

DECEMBER 5, 2022/rb



सत्यमेव जयते