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* IN THE HIGH COURT OF DELHI AT NEWDELHI

Reserved on: August 18, 2022

Decided on: August 22, 2022

+ CRL.M.C. 2937/2019

LAUKUSH KUMAR

....Petitioner

Through: Mohd. Zahid, Mr. Brahm Kr. Pandey and Ms. Suhani Sumanchna, Advocates with petitioner in person.

V

STATE(GOVT. OF NCT) & ANR.

.....Respondents

Through: Mr. Hitesh Vali, APP for State with Insp. Dharmendra Kumar, P.S. Preet Vihar.
Mr. Shantanu Aggarwal, Advocate for R-2 with SPA holder of R-2 (through VC)

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CORAM:

HON'BLE MR. JUSTICE SUDHIR KUMAR JAIN

JUDGMENT

1. The present petition is filed under section 482 Cr.P.C. for quashing of FIR bearing No. 0020/2017 dated 17.01.2017 registered at P.S. Preet Vihar under sections 387/506 IPC and consequential proceedings arising out of the said FIR.

2. The perusal of FIR bearing No. 0020/2017 dated 17.01.2017 reflects that on 15.01.2017 at about 3:36 PM, the respondent no. 2



received a call from mobile No. 9810001208 from unknown person who threatened him and also threatened to kidnap daughter aged about 3 years and also demanded Rs.10,00,000/-. The petitioner was arrested on 18.01.2017 during investigation. The charge-sheet was filed after completion of investigation and the trial is stated to be pending in the Court of Shri Amit Arora, ACMM, East, Karkardooma Courts, Delhi.

3. The counsel for the petitioner argued that the respondent no. 2 has settled with the petitioner vide settlement deed dated 09.03.2019 whereby the respondent no. 2 has agreed not to pursue with the proceedings arising out of FIR bearing No. 0020/2017 on humanitarian ground and without any consideration.

4. The counsel for the respondent no. 2 who had joined through video-conferencing also stated that the respondent no. 2 who at present is residing in Australia, does not have any objection if the present petition is allowed and the FIR bearing No. 0020/2017 is allowed to be quashed.

5. The Additional Public Prosecutor for the State raised objection by stating that the present FIR pertains to offence under section 387 IPC which is non-compoundable offence as per section 320 Cr.P.C. and as such the present petition cannot be allowed and FIR bearing No. 0020/2017 cannot be quashed.

6. Section 320 of the Code deals with compounding of offences. As per sub section (1) certain specified offences can be compounded without leave/permission of the court and as per sub section (2) certain specified offences can be compounded with leave/permission



of the court. Section 482 saves the inherent power of the High Court and reads as follows:-

Section. 482. Saving of inherent power of High Court.- Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

7. The Supreme Court in various decisions considered issue whether High Court in exercise of its inherent powers under section 482 of the Code can quash criminal proceedings/ FIR/ complaint and section 320 of the Code does not limit or affect the powers under section 482 of the Code. The Supreme Court continuously observed that the extraordinary power Under Section 482 Code of Criminal Procedure should be exercised sparingly and with great care and caution and can be used to prevent abuse of the process of the court or to secure ends of justice and the exercise of inherent powers entirely depends on facts and circumstances of each case.

8. The power of compounding and quashing of criminal proceedings in exercise of inherent powers are not equal or interchangeable in law. The Supreme Court in various decisions also considered scope of Section 320 *vis-à-vis* the inherent power of the High Court under Section 482 of the Code. The Supreme Court in **Shiji alias Pappu and others V Radhika and Anr**, (2011) 10 SCC 705 considered the exercise of inherent power by the High Court under section 482 in a matter where the offence was not compoundable and observed that simply because an offence is not



compoundable under section 320 Code of Criminal Procedure is by itself no reason for the High Court to refuse exercise of its power under section 482 Code of Criminal Procedure. It was further observed that there is a subtle distinction between compounding of offences by the parties before the trial court or in appeal and the exercise of power by the High Court to quash the prosecution Under Section 482 Code of Criminal Procedure. The Supreme Court in **Y. Suresh Babu V State of A.P.**, (2005) 1 SCC 347 allowed the compounding of an offence under section 326 IPC even though such compounding was not permitted by Section 320 of the Code.

9. Section 387 IPC deals with offence of putting a person in fear of death or grievous hurt in order to commit extortion and offence is punishable with imprisonment which may extend to 7 years alongwith fine. The Co-ordinate Bench of this Court in petition bearing No. CRL.M.C. 1412/2013 titled as **Devenderjeet Singh & Another V SHO/IO & Another** vide order dated 30.07.2015 has quashed FIR registered under sections 384/387/34 IPC on the basis of the settlement by observing that continuance of the proceedings arising out of FIR would be an exercise in futility as misunderstanding led to the registration of FIR. The High Court of Punjab & Haryana in case titled as **Nitin and Another V State of Haryana and Another** bearing Crl.Misc.M. No. 32795/2008 decided on 17.02.2009 has also ordered for quashing of FIR registered under sections 387/506 IPC on the basis of compromise.

10. In the present case, the respondent no. 2 who is the complainant, on humanitarian ground after considering the socio-



economic background of the petitioner had agreed not to pursue with the proceedings arising out of FIR bearing No. 0020/2017. The respondent no. 2 at present residing in Australia and as such there is remote possibility of the conviction. If the proceedings arising out of FIR bearing No. 0020/2017 are allowed to be continued and it would be an exercise in futility without any purpose.

11. After considering all facts and in the interest of justice, the present petition is allowed and FIR bearing No. 0020/2017 dated 17.01.2017 registered under sections 387/506 IPC at P.S. Preet Vihar alongwith consequential proceedings including judicial proceedings is quashed with a cost of Rs.15, 000/- to be deposited in Delhi High Court Staff Welfare Fund, SB A/c No. 15530110074442, maintained with UCO Bank, Delhi High Court within 15 days from today and receipt of the same be produced before the concerned trial Court within one week thereafter.

12. The present petition alongwith pending applications, if any, stands disposed of.

SUDHIR KUMAR JAIN
(JUDGE)

AUGUST 22, 2022
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