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

+ **CRL.M.C. 2984/2019**

NASIR KHAN & ORS

..... Petitioners

Through: Mr. Alamgir with Mr. Nushad ali,
Advocates.

versus

THE STATE (NCT OF DELHI) & ORS

..... Respondents

Through: Mr. Pradeep Gahalot, APP for the
State.
Mr. Harmeet Singh Kakkar with
Ms.Neha Kapoor, Advocates for
respondent Nos.2 to 5.

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Date of Decision: 13th December, 2022

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

CRL.M.C. 2984/2019

1. The present petition has been filed for quashing FIR No.0007/2017, registered at Police Station Defence Colony under Sections 323/354/506/509/34 IPC. The FIR was lodged on the statement of respondent no. 2./complainant Smt. Mundresh Devi against the petitioners i.e. Nasir Khan, Raja Khan Rana and Imran Khan Ahmed.

2. Facts, in brief, are that the parties are neighbours and living in the vicinity of each other. Certain disputes arose between the parties and respondent no. 2/complainant lodged the present FIR on 12.02.2017. Consequent to lodging the above-numbered FIR, the IO investigated the matter and the charge sheet was filed on 25.10.2017.

3. Learned Counsel for the petitioners submits that an FIR No.06/2017U/s 323/341/509/354/354B/34 IPC at P.S. Defence Colony, New Delhi was also filed against respondents no.3 and 4 and his family members. He submits that during the pendency of the proceedings, the matters were referred to mediation at the instance of the learned Trial Court and the parties have reached on an amicable settlement before the Mediation Centre, Saket Courts

4. As per the settlement, it has been agreed upon between the parties that they will maintain peace and harmony amongst each other and will not indulge in any further scuffle and/or heated verbal exchange in connection with and/or relating to the incident of the present matters. It has also been agreed between the parties that Smt. Mundresh Devi shall remove all her belongings and shall not keep any other articles on the road in future.

5. Jiwan Pal, Mundresh Pal, Bhawna Kumari, Pooja Kumari, Sonu Kumar and Sumit Kumar are present in Court. Ms Anju Kumari is appearing through video conferencing.

6. I have interacted with the complainant, who is present in Court and has duly been identified by the Investigating Officer. She has stated that she has arrived at a compromise out of her own choice, free will and consent,

without any pressure, undue influence or coercion. Further, she states that she has no objection if the present FIR and the proceedings emanating therefrom are quashed.

7. The Investigating Officer states that there is no other case pending against the parties. The Investigating Officer also states that he has not received any other complaint against the parties.

8. The scope of powers conferred under Section 482 Cr.P.C. though wide but has to be exercised with circumspection. Such power has to be exercised in accord with the guidelines engrafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court. In cases where the offences are not compoundable in nature, the parties on account of an amicable settlement may invoke the inherent power under Section 482 Cr.P.C. for quashing the proceedings on the plea that continuance thereof would merely be an abuse of process of law.

9. In *Yashpal Chaudhrani and Others vs. State (Govt. of NCT Delhi) and Another*, 2019 SCC OnLine Del 8179, while examining the scope of Section 482 Cr.P.C it was *inter alia* held as under:

55. Though the above-noted authoritative pronouncements of the Supreme Court have consistently laid down the broad principles governing the exercise of power of the High Court under Section 482 of the Cr. PC for bringing an end to the criminal process, for addressing the concerns noted at the outset and future guidance of trial courts, some of the crucial ones may be flagged as under:—

(i). The inherent jurisdiction vested in the High Court, as recognized and preserved by Section 482 Cr. PC, is

primarily to “prevent abuse of the process of court” or to “otherwise secure the ends of justice”.

- (ii). The ends of justice are higher than the ends of mere law, the prime principle governing the exercise of inherent power being “to do real, complete and substantial justice” for which the court exists.*
- (iii) It is the duty of the court to give “adequate treatment to the settlement between the parties” particularly in cases involving compoundable offences, the exercise of inherent power of the High Court under Section 482 Cr.P.C., however, not being inhibited in case of non-compoundable offences though, for the latter category, such power is to be “exercised sparingly and with caution”.*
- (iv).If the criminal case has “overwhelmingly and predominantly civil character”, particularly if it arises out of “commercial” (financial, mercantile, partnership or such other) transaction - and this would include the “cheque bouncing cases” under Section 138 N.I. Act - or “matrimonial dispute” or “family dispute”, genuine resolution on equitable terms, in entirety, by the parties should result in criminal proceedings being quashed.*
- (v). Since the institution of marriage has an important role to play in the society, the court is to make every effort to encourage the parties to terminate such discord amicably and if it appears that elements of settlement exist, and the parties are willing, they are to be directed to the process of mediation to explore the possibility of settlement, it being desirable to do so even at the “pre-litigation stage”.*
- (vi). While examining the prayer for quashing of a non compoundable offence, on the basis of settlement of the dispute between the wrongful doer and the victim, the High Court is to bear in mind as to whether the possibility of conviction is “remote and oblique” and further, if the continuation of the criminal case would lead to “oppression and prejudice” or “extreme injustice” for the accused.*

- (vii). *The considerations which would weigh with Court include the antecedents of the accused, possible lack of bona fides, his past conduct and that includes the question as to whether he had earlier absconded and as to how he had managed with the complainant to enter into a compromise.*
- (viii). *But, the High Court, when called upon to exercise the power under Section 482 Cr. PC to bring the criminal case to an end on the basis of settlement, must steer clear of intervention in “heinous” or “serious” offences, including those involving “mental depravity”, as indeed “economic offences” affecting “the financial and economic well being of the State”, such as murder, attempt to murder, extortion, forgery, rape, dacoity, financial or economic frauds, cases under Arms Act, etc., the reason being that such offences are “not private in nature” but have “a serious impact upon society”, and continuation of trial thereof is essential due to “overriding element of public interest”.*
- (ix). *The court, however, is not to go by mere use of label of a serious offence (e.g. offence under Section 307 IPC), it being open to it to examine, by scrutiny of the evidence gathered, to find as to whether there are sufficient grounds to frame charge for such offence and, in this view, it being “not permissible” to intervene till the matter has been properly investigated.*

10. In the landmark judgment of **Gian Singh v. State of Punjab**, (2012) 10 SCC 303, it was *inter alia* held as under:

“55. In the very nature of its constitution, it is the judicial obligation of the High Court to undo a wrong in course of administration of justice or to prevent continuation of unnecessary judicial process. This is founded on the legal maxim quando lex aliquid alicui concedit, conceditur et id sine qua res ipsa esse non potest. The full import of which is whenever anything is authorised, and especially if, as a matter of duty, required to be done by law, it is found impossible to do that thing unless something else not

authorised in express terms be also done, may also be done, then that something else will be supplied by necessary intendment. Ex debito justitiae is inbuilt in such exercise; the whole idea is to do real, complete and substantial justice for which it exists. The power possessed by the High Court under Section 482 of the Code is of wide amplitude but requires exercise with great caution and circumspection.”

11. The apex court in **Gian Singh (supra)** also distinguished the parameters for compounding of offence and for quashing the proceedings on the basis of settlement.

“57. Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of a criminal court is circumscribed by the provisions contained in Section 320 and the court is guided solely and squarely thereby while, on the other hand, the formation of opinion by the High Court for quashing a criminal offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.”

12. It is also relevant to note that in **Gian Singh (supra)**, the Supreme Court has held as under:

“61. The position that emerges from the above discussion can be summarised 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.”

13. In the present case, both parties are neighbours and live in the same vicinity and have undertaken to maintain peace and harmony. In my considered opinion, it is in the interest of social harmony that they are given a chance to adhere to the settlement, which has entered into between the parties amicably out of their own free will.

14. Taking into account the totality of facts and circumstances and the fact that the parties are neighbours and have amicably decided to settle the matter, the case FIR No.0007/2017, under Sections 323/354/506/509/34 IPC registered at Police Station Defence Colony and all the proceedings emanating therefrom are quashed.

15. The present petition stands disposed of.

DINESH KUMAR SHARMA, J

DECEMBER 13, 2022/st..

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