



* IN THE HIGH COURT OF DELHI AT NEW DELHI

%

Reserved on : 12.01.2022

Pronounced on : 12.04.2022

+ W.P.(CRL) 1852/2021

MUKESH BHATIA AND ORS.

..... Petitioner

Through: Mr. Vikash Bahtia, Advocate for P-1 to P-4.

Mr. Ravi Rai, Advocate for P-5 with P-5.

Versus

THE STATE OF NCT OF DELHI AND ANR.

..... Respondents

Through: Mr. Rajesh Mahajan, ASC for the State.

Mr. Sanjeev Kumar, Advocate for R-2 and 3

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

JUDGMENT

RAJNISH BHATNAGAR, J.

1. The present petition has been filed by the petitioner under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 for quashing of the FIR No. 566/2017 under Section 420/468/34 IPC and further added Sections 471/174A/120B registered at



P.S. Mandawali Fazalpur, East Delhi and the proceedings emanating therefrom.

2. Briefly stated, the facts of the case are that the present case was registered on the complaint of Dr. Dharamveer Singh Baliyan alleging that on 30.07.2009 his wife Smt. Usha Rani had applied for an outlet retailer shop Petrol Pump of Hindustan Petroleum Corporation Limited, at her plot Khurza Zewar Road in UP. On 05.10.2009 she received a registered letter from Hindustan Petroleum Corporation Limited for interview on 21/10/2009 at Mathura Refinery, in U P, thereafter, the complainant informed his close friend Jaiprakash Sharma about the same and on thus, accused Jai Prakash lured and instigated him by stating that he could get arranged the license of petrol pump with the help his associates. On 09.10.2009, alleged Jaiprakash with the intent to cheat, got arranged a meeting with one Raghvendra Singh Kanchan, Advocate, in Chamber at Supreme Court in New Delhi where advocate Kanchan demanded Rs.3,50,000/- as advance to start the process with accused Mukesh Bhatia. On 12.10.2009, accused Jaiprakash and Raghvendra Singh Kanchan reached at complainant's house for collection of advance money for process, where complainant gave cash Rs.3,50,000/- in the presence of witness Siya Ram.

3. On 13.10.2009 accused Jaiprakash again called the complainant at Supreme Court along with the call letter for a meeting with Raghvendra Singh Kanchan and accused Mukesh Bhatia. There, the accused Mukesh Bhatia impersonated himself as a member from the Ministry and assured the complainant that Regional Manager Sh. Onkar Nath was his known and he was asked to arrange Rupees sixty to sixty five lacs, out of which about



Rs.35 lacs were for security, Rs.20 lacs for license and Rs.10 lacs for processing charge for getting the NOC from various departments. On 21.10.2009 interview of complainant's wife was conducted at Mathura Refinery. Accused persons namely Jai Prakash Sharma, Adv. Raghvendra Singh Kanchan and Mukesh Bhatia entered into a conspiracy and asked the complainant to fix a meeting with co-accused Onkar Nath, stated to be Regional Manager, HPCL for allotment of Petrol Pump in the month of January 2010. All accused persons and the complainant along with his friend Siya Ram went to Mathura Refinery. During the meeting, accused Onkar Nath assured the complainant to follow the directions of Mukesh Bhatia, and they would get the outlet retailer-shop of Petrol Pump. On 28.01.2010 accused Mukesh Bhatia along with accused Jaiprakash came at the house of complainant and took Rs.2 lacs as advance for processing of license. In this way, accused Mukesh Bhatia in collusion with his associates Jaiprakash, and Advocate Kanchan and Regional Manager Onkar Nath allegedly grabbed Rs. 64,00,000/- (Rupees Sixty four lacs) in cash and Rs. 17,00,000/- (Rupees Seventeen lacs) through cheque/ RTGS from the Complainant. On 15.01.2020, during the course of investigation accused Jai Prakash Sharma was arrested and remanded for two days. During police remand, accused Jaiprakash Sharma disclosed the conspiracy and modus of cheating. Accused Jaiprakash Sharma was enlarged on bail by the Court after payment of Rs. 19 lacs to the complainant.

4. On 02.09.2020 accused Mukesh Bhatia was declared as Proclaimed Offender by Court of learned M.M, Karkardooma, Delhi and section 174 A IPC was added in the present case. On 17.12.2020 accused Mukesh Bhatia W.P. (CRL) 1852/2021



was arrested in present case and subsequently, was enlarged on bail by the Court after payment of Rs.11.50 lacs to the complainant. Accused Raghvendra Singh Kanchan and Onkar Nath were granted anticipatory bail by Hon'ble High Court.

4. I have heard the learned counsel for the petitioner, learned counsel for the complainant (respondent No. 2), learned ASC for the State and perused the records of this case.

5. It is submitted by the learned counsel for the petitioners as well as counsel for the respondent No. 2 and respondent no. 3 that the petitioner no. 1 and petitioner no. 2 have settled their disputes vide compromise cum settlement deed dated 18.12.2020 and there is no dispute left between the parties. It is further submitted by the counsel for the petitioners that the petitioner no. 3 has also settled all the disputes/grievances with respondent no. 2 and respondent no. 3 vide settlement deed dated 19.08.2021 and petitioner no. 4 has also settled his disputes with the respondent no. 2 and respondent no. 3 vide MOU dated 18.01.2020. It is further submitted that no incriminating evidence has been found against petitioner no. 5. It is further submitted by the learned counsel for the petitioners and the counsel for the respondent No. 2 and respondent No. 3 that since no dispute or grievance is left between the parties and the parties have compromised the matter in an amicable and peaceful manner, thus, no useful purpose would be served by continuing with the present case.

6. On the other hand, it is submitted by learned ASC that allegations against the petitioners are serious in nature, however, since the parties have

W.P. (CRL) 1852/2021



amicably settled their disputes, the state has no objection if the FIR in question is quashed. He further submits that though this Court may quash offences punishable under Section 420/468/471/120B/34 IPC, however since Section 174A IPC does not affect the complainant but the administration of justice, the same may not be quashed.

7. Petitioners are present in Court today. Respondent No.2 and Respondent No.3 are also present in Court today, through VC. Parties have been identified by the IO. I have interacted with the parties and they submit that they have settled their disputes. Respondent No.2 and Respondent No.3 admit that they have settled the matter amicably with the petitioners. They further submit that the settlement/compromise has taken place voluntarily, without any force, pressure or coercion. Respondent No.2 and Respondent No.3 submit that nothing remains to be adjudicated further between them and they have no objection if the FIR in question is quashed.

8. In the instant case, since the matter has been settled between the parties, no useful purpose will be served by keeping the case pending. It will be nothing but abuse of the process of law. However the issue remains whether this Court can quash the FIR qua Section 174A IPC which is a standalone offence committed by the petitioner after registration of FIR as he had absconded and could not be arrested.

9. In *Narinder Singh and Ors. Vs. State of Punjab & Ors.* (2014) 6 SCC 466 Supreme Court relying upon its earlier decision in *Gian Singh Vs. State of Punjab* held:



“29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

(i) ends of justice, or

(ii) to prevent abuse of the process of any court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.



29.3. *Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.*

29.4. *On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.*

29.5. *While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.*

29.6. *Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest*



its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used, etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

29.7. While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the



matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come to a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.”



10. Considering the nature of allegations in FIR for offences punishable under Sections 420/468/471/120B/34 IPC being personal in nature, I deem it fit to quash the FIR No. 566/2017 qua Sections 420/468/471/120B/34 IPC, however since Section 174A IPC is a standalone provision which has no bearing to the other alleged offences and is not an offence of personal nature *inter-se* the parties i.e. the petitioners and respondent no.2 and respondent no.3, thus, this Court refrains from quashing the proceedings pursuant to the above-noted FIR qua Section 174A IPC.

11. Consequently the proceedings before the learned Trial Court would now go on for offence punishable under Section 174A IPC and not qua offences punishable under Sections 420/468/471/120B/34 IPC to which extent the proceedings pursuant to the FIR are hereby quashed.

12. The present petition stands disposed of accordingly. Pending applications, if any, are also disposed of accordingly.

RAJNISH BHATNAGAR, J

APRIL 12, 2022

P