



\$~68

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

% *Date of decision: September 25, 2023*

+ **CRL.M.C. 5703/2019**

SH. VINOD AGGARWAL & ANR. Petitioners
Through: **Mr. Anjuti Kumar, Advocate with**
petitioners in person.
versus

STATE & ORS. Respondents
Through: **Mr. Yudhvir Singh Chauhan, APP**
for State/R-1 with SI Rakesh, P.S.
Sagarpur.
Mr. Sanjay Singh, Advocate for R-2
to 5 with R-2 to 5 in person.

CORAM:
HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN
JUDGMENT (oral)

1. The present petition is filed under section 482 Cr.P.C. for quashing of FIR bearing no. 0268/2017 registered under sections 304A/287 IPC at P.S. Sagarpur along with consequential judicial proceedings.
2. Issue notice.
3. Mr. Yudhvir Singh Chauhan, Additional Public Prosecutor assisted by the Investigating Officer SI Rakesh, P.S. Sagarpur, accepts notice on behalf of the State/respondent no. 1. The respondents no. 2 to 5 are present in person along with the counsel and accept notice.



4. The perusal of FIR bearing no.0268/2017 reflects that Vijay Kumar was employed at Aggarwal Sweets situated at WZ 16 HS, Gali No. 6, Gandhi Market, Sagarpur, New Delhi, which is stated to be owned by the petitioners. It is stated that Vijay Kumar, who was the employee of the petitioners had died due to electrocution on 24.08.2017 at about 7:15 PM, due to the negligence of the petitioners. Thereafter, the present FIR bearing no. 0268/2017 under sections 304A/287 IPC was got registered. After conclusion of investigation, the charge-sheet was filed wherein the petitioners were implicated and the trial is stated to be pending in the court of Ms. Isha Singh, MM, Patiala House Courts, New Delhi/Successor Court. The respondents no. 2 to 5 are stated to be the surviving legal heirs of Vijay Kumar (since deceased). The respondents no.4&5 were impleaded subsequently. The petitioners and the respondents no. 2 to 5 are identified by the Investigating Officer SI Rakesh, P.S. Sagarpur and their respective counsel.

5. The counsel for the petitioners stated that the petitioners have settled with the respondents no. 2 and 3, who are stated to be the parents of Vijay Kumar (since deceased) vide Memorandum of Settlement dated 29.03.2019 whereby the petitioners have agreed to pay Rs.1,00,000/- as compensation to



the respondents no. 2 and 3 and the said compensation also includes the compensation/gratuity under the Payment of Gratuity Act, Karampura in pursuance of claims bearing no. PGA/WD-35/CA-II/LAB/18.

6. The petitioners have now increased the compensation amount to Rs.6,00,000/- (Rupees Six Lacs Only) to be paid to the respondents no. 4 and 5. The respondents no. 2 and 3, who are the parents of Vijay Kumar (since deceased), have agreed not to accept any compensation from the petitioners and the compensation amount of Rs.6,00,000/- be paid to the respondents no. 4 and 5, who are wife and son of Vijay Kumar (since deceased) in equal proportion. The petitioners delivered two demand drafts bearing no. 024343 and 024344 dated 18.09.2023 drawn on Axis Bank amounting to Rs.3,00,000/- each to the respondent no. 4 towards payment of compensation amount, which is accepted by the respondent no. 4 for herself and on behalf of the respondent no. 5.

7. The compensation amount of Rs.3,00,000/- in respect of the respondent no. 5, who is minor son of Vijay Kumar (since deceased), shall be converted into an FDR in the name of respondent no. 5, which shall be matured after attaining the age of majority and thereafter, the respondent no.5 shall be entitled to receive all the benefits including interest accrued



thereon.

8. The counsel for the petitioners stated that as per the allegations made in FIR bearing no.0268/2017 death of Vijay Kumar (since deceased) was purely an accident and cannot be attributed as the negligence on the part of petitioners. The counsel for the petitioners further stated that the respondents no. 4 and 5 have also been duly compensated with the consent of the respondents no. 2 and 3. In these circumstances, it is prayed that the present petition be allowed and FIR bearing no.0268/2017 be quashed along with consequential judicial proceedings.

9. The counsel for the respondents no. 2 to 5 stated that as the respondents no. 4 and 5 with the consent of the respondents no. 2 and 3, have duly compensated and the death of Vijay Kumar (since deceased) was a sheer accident without any negligence on the part of the petitioners as such, the respondents no. 2 to 5 do not have any objection if the present petition is allowed and FIR bearing no. 0268/2017 is quashed along with consequential judicial proceedings.

10. The Additional Public Prosecutor for the State/respondent no. 1 stated that one precious human life has been lost due to alleged negligence on the part of petitioners but under the given facts and circumstances, he does not



have any objection if the present petition is allowed and FIR bearing no.0268/2017 is quashed along with consequential judicial proceedings.

11. 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. 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.

12. The Supreme Court in various cases also considered categories of cases, in respect of which FIR can be quashed. The Supreme Court in **Gian Singh V State of Punjab and Ors., (2012)10SC C 303** laid down following principles:-

57. 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 F.I.R may be exercised where the offender and 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 serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil favour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and



if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

13. The Supreme Court in **State of Madhya Pradesh V Laxmi Narayan & Ors.**, 2 (2019) 5 SCC 688 recapitulated principles laid down in **Gian Singh** case and observed as under:-

(1) That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

(2) Such power is not to be exercised in those prosecutions which involved 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;

(3) Similarly, such power is not to be exercised for the offences under the special statutes 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;

(4) xxx xxx xxx

(5) While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise, etc.



14. The Supreme Court in **Ramgopal & another V State of Madhya Pradesh**, Criminal Appeal No. 1489 of 2012 decided 29th September, 2021 observed as under:-

11. True it is that offences which are ‘non-compoundable’ cannot be compounded by a criminal court in purported exercise of its powers under Section 320 Cr.P.C. Any such attempt by the court would amount to alteration, addition and modification of Section 320 Cr.P.C, which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320 Cr.P.C., which may justify its wider interpretation and include such offences in the docket of ‘compoundable’ offences which have been consciously kept out as non-compoundable. Nevertheless, the limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 Cr.P.C. The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482 Cr.P.C. in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.

12. The High Court, therefore, having regard to the nature of the offence and the fact that parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under Section 482 Cr.P.C., even if the offences are non- compoundable. The High Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyze the very object of the administration of criminal justice system.

13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are pre-dominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of



delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post- conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extra-ordinary power under Section 482 Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482 Cr.P.C. may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in *Narinder Singh & Ors. vs. State of Punjab & Ors.* 3 (2014) 6 SCC 466 and *Laxmi Narayan (Supra)*.

14. In other words, grave or serious offences or offences which involve moral turpitude or have a harmful effect on the social and moral fabric of the society or involve matters concerning public policy, cannot be construed betwixt two individuals or groups only, for such offences have the potential to impact the society at large. Effacing abominable offences through quashing process would not only send a wrong signal to the community but may also accord an undue benefit to unscrupulous habitual or professional offenders, who can secure a 'settlement' through duress, threats, social boycotts, bribes or other dubious means. It is well said that "let no guilty man escape, if it can be avoided."

15. The Supreme Court in *Daxaben V. The State of Gujrat & Ors.*, SLP Criminal No.1132-1155 of 2022 decided on 29.07.2022 also observed as under:-



38. However, before exercising its power under Section 482 of the Cr.P.C. to quash an FIR, criminal complaint and/or criminal proceedings, the High Court, as observed above, has to be circumspect and have due regard to the nature and gravity of the offence. Heinous or serious crimes, which are not private in nature and have a serious impact on society cannot be quashed on the basis of a compromise between the offender and the complainant and/or the victim. Crimes like murder, rape, burglary, dacoity even abetment to commit suicide are neither private nor civil in nature. Such crimes are against the society. In no circumstances can prosecution be quashed on compromise, when the offence is serious and grave and falls within the ambit of crime against society.

16. The Co-ordinate Bench of this Court in **Santosh Kumar Chauhan V State & Anr.** bearing CRL.M.C. 5598/2019 passed on 02.05.2022 quashed the FIR registered under sections 288/304A IPC on account of settlement between the affected parties and also observed that the petitioner did not have any role to play in the unfortunate incident. The similar Co-ordinate Bench also quashed the FIR registered under sections 279/337/304A IPC in CRL.M.C. 6697/2019 titled as **Satish Kumar & Anr. V State & Ors.** passed on 02.05.2022. Another Co-ordinate Bench of this Court in W.P.(CRL) 1612/2016 titled as **Sanjay V State & Ors.** also quashed FIR registered under sections 288/304A IPC on the basis of settlement between the concerned parties.

17. This Court in petitions titled as **Rajuram V State and Another** bearing Criminal Miscellaneous no. 6137/2019 and **Vashishta Gakhar V**



State & Ors. bearing no. Criminal Miscellaneous no. 4284/2019 has also quashed FIR under sections 288/337 IPC vide orders dated 23.08.2022 and 05.09.2022, respectively and consequential proceedings under sections 288/304A IPC on the basis of the settlement between the parties and by also observing that the petitioner was not responsible for the alleged incident that had happened due to the reasons beyond his control.

18. The petitioners and the respondent no. 2 and 3 have settled vide Memorandum of understanding dated 29.03.2019, the terms and conditions of which have already been executed. The respondents no. 4 and 5 have also been duly compensated with the consent of the respondents no. 2 and 3 and the death of Vijay Kumar (since deceased) was a sheer accident which cannot be attributed as the negligence on the part of the petitioners. No useful purpose shall be served if the proceedings arising out of FIR bearing no.0268/2017 are allowed to be continued. After considering all facts, the present petition is allowed and FIR bearing no.0268/2017 dated 24.08.2017 registered under sections 304A/287 IPC at P.S. Sagarpur is quashed along with consequential proceedings including judicial proceedings stated to be pending in the concerned court of Ms. Isha Singh, MM, Patiala House Courts, New Delhi/Successor Court. However, the respondent no. 4 is



directed to place on record the copy of FDR to be issued in the name of the respondent no. 5 with all particulars within 15 days from today.

19. The present petition along with pending applications, if any, stands disposed of.

DR. SUDHIR KUMAR JAIN, J

SEPTEMBER 25, 2023

N/SD