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

+ **CRL.M.C. 4927/2023**

ABHISHEK BHARDWAJ & ORS. Petitioners

Through: **Mr.Gaurav Kumar Chitkara &
Mr.Ankit Sethi, advts.**

versus

STATE OF NCT OF DELHI AND ANR. Respondents

Through: **Mr.Amit Sahni, APP for the State.
SI Amit Rathee, PS Nangloi**

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Date of Decision: 20.07.2023

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

CRL.M.A. 18762/2023 & CRL.M.A. 18763/2023 (exemption)

Exemptions allowed subject to all just exceptions.

Applications stand disposed of.

CRL.M.C. 4927/2023

1. Present petition has been filed for quashing of FIR no.0189 dated 18.04.2019 registered under Section 308/341/365/506/34 IPC at PS Nangloi.
2. Briefly stated facts of the case are that the present FIR 189/2019 was lodged at the statement of Abhishek Shrivastav alleging therein that on

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17.04.2019 at about 7:30 pm while the complainant was going towards his house, one boy stopped him asked him about a person by showing the person's photo. The complainant told the boy that he has seen the person in the photo and on this the boy called his friends and they forced the complainant to sit in the car and take them to the person in the photo. When the complainant resisted, they started to beat him and threatened to kill him. The complainant was forcefully made to sit in the car. It is alleged that the complainant managed to get out of the car and he fell down while doing so. It is alleged that the 5 persons again started hitting him mercilessly. The Public persons who were around came to rescue the complainant. Police also arrived at the spot and the complainant was taken to the hospital. It is alleged that by this time the 5 persons had already run away on seeing people gathering there.

3. Learned counsel for the petitioners submits that however, now the parties have entered into a settlement and therefore, the petition may be quashed.
4. Learned counsel for the petitioners further submits that all the petitioners are under 21 years of age and they have no criminal antecedents.
5. It is a settled proposition that the discretion under Section 482 Cr.P.C. can be exercised only to prevent the abuse of the process of the court or the miscarriage of justice. It has been repeatedly held that such discretion cannot be exercised in serious cases like under Section 308 IPC.



6. In *State of Madhya Pradesh v. Laxmi Narayan and others* (2019) 5 SCC the Hon'ble Supreme Court has summarized the law regarding powers conferred under section 482 Cr.P.C and has *inter alia* held as under:

“ 15.1. 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;

15.2. 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

15.3. 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

15.4. Offences under Section 307 IPC and the Arms Act, etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act, etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. 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 framing 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/delicate parts of the body, nature of weapons used, etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge-sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation.

15.5 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.”

7. In the present case, the perusal of the FIR indicates that there wasn't any civil dispute between the parties, neither were they neighbors nor was there any chance of the said incident being arisen out of a misunderstanding.
8. Learned APP has also informed that as per the instructions of the IO, charge sheet has already been filed. It has also been informed that petitioner no.3 Sumit Sharma is also involved in an Arms Act case.
9. The facts of this case reveal that that the petitioners without any reason started beating the respondent, tried to kidnap him and took him in the car. Respondent no.2 could be rescued only with the intervention of the public persons. The facts on the face of it are very serious in nature. The settlement deed placed on the record also does not inspire the



confidence of the court. Rather, this court is doubtful about the genuineness of such Memorandum of Understanding.

10. In the facts and circumstances, the petition is dismissed with a cost of Rs.5,000/- each upon the petitioners. The cost is to be deposited with the Advocate Welfare Fund within a period of one month.
11. The petition stands disposed of.

DINESH KUMAR SHARMA, J

JULY 20, 2023

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