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

Date of decision: July 21, 2023

+ CRL.M.C. 4966/2023 & CRL.M.A. 18928/2023

MR. SONU

..... Petitioner

Through: Mr. Sourav Ghosh, Advocate for
petitioner with petitioner in person

versus

THE STATE (GOVT. OF NCT OF DELHI) & ORS. Respondents

Through: Mr. Utkarsh, APP for the State with
SI Rakesh Kumar, P.S. Tigri
Mr. M. Hasibuddin, Advocate with R-
2 and 3 in person

CORAM:

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

J U D G M E N T (oral)

[Through Hybrid Mode]

1. The present petition is filed under section 482 Cr.P.C for quashing of FIR bearing no.269/2022 dated 05.07.2022 registered under section 307 IPC at P.S. Tigri along with consequential proceedings stated to be pending in the Court of Ms. Shailendra Kaur Principal District and Sessions Judge (South District), Saket Court, New Delhi.
2. Issue notice.
3. Mr. Utkarsh, Additional Public Prosecutor assisted by Investigating Officer, S.I. Rakesh Kumar, P.S. Tigri accepts notice on behalf of the respondent no.1/State. The respondent nos.2 and 3 are present in person along with counsel and accepts notice.



4. The present FIR was got registered on the basis of the complaint made by the respondent no.2 pertaining to the incident stated to be happened on 04.07.2022 wherein the petitioner was implicated. After conclusion of the investigation, the charge-sheet was filed under section 307/326 IPC. Beside respondent no.2, the respondent no.3 also received the injuries. The trial is stated to be pending in the Court of Ms. Shailendra Kaur, Principal District and Sessions Judge (South District), Saket Court, New Delhi and the charges have already been framed. The petitioner and the respondent nos.2 and 3 are identified by the respective counsel as well as by the Investigating Officer.
5. A cross FIR bearing no.268/2022 dated 05.07.2023 was also got registered under section 308/34 IPC on the basis of the complaint made by the petitioner wherein the respondent nos.2 & 3 were implicated. The petitioner also stated to have received injuries. After conclusion of the investigation, the trial is stated to be pending in the Court of Ms. Shailendra Kaur, Principal District and Sessions Judge, South District Saket, Delhi.
6. The counsel for the petitioner stated that the petitioner and the respondent nos.2 & 3 have settled their disputes vide Settlement Agreement/Memorandum of Understanding stated to be executed on 15.07.2023, whereby the concerned parties have agreed not to pursue with the judicial proceedings arising out of FIR bearing no.268/2022 and 269/2022. It is further stated that the petitioner and the respondent nos.2 & 3 belong to the lower strata of the society and are residing in the same locality. The alleged incident had happened on trivial issue and without any premeditation. The counsel for the petitioner also stated that the respondent no.2 received injuries which were opined to be simple and the injuries received by the respondent no.3 were grievous in nature. In these



circumstances, the counsel of the petitioner prayed that the present petition be allowed and FIR bearing no. 269/2022 along with consequential judicial proceedings be quashed.

7. The counsel for respondent nos.2&3 also stated that the respondent nos.2&3 have settled with the petitioner due to intervention of the respectable persons of the society out of their own free will and without any force, fear and coercion and do not have any objection if the present petition is allowed and FIR bearing no.269/2022 along with consequential judicial proceedings is quashed.

8. The Additional Public Prosecutor for the respondent no.1/State opposed the present petition by stating that the respondent no.3 received the grievous injuries by the knife and the injuries were inflicted on the vital part of the body as such, the present petition be dismissed. The Additional Public Prosecutor during the course of the arguments cited **State of Madhya Pradesh V Laxmi Narayan & Others**, (2019) 5 SCC 688 and **P.Dharamraj V Shanmugam & Others**, 2022 SCC OnLine SC 1186 . He also argued that the offence punishable under section 307 IPC is a non-compoundable offence.

9. 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.

10. 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. The Supreme Court in various decisions considered issues 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 in **Dharampal and others V Ramshri (Smt.) and others**, 1993 Cri.L.J. 1049 observed that the inherent powers under section 482 of the Code cannot be utilized for exercising powers which are expressly barred by the Code. The Supreme Court in **Arun Shankar Shukla V State of Uttar Pradesh and others**, AIR 1999 SC 2554 held as under:-

...It is true that Under Section 482 of the Code, the High Court has inherent powers to make such orders as may be necessary to give effect to any order under the Code or to prevent the abuse of process of any court or otherwise to secure the ends of justice. But the expressions "abuse of the process of law" or "to secure the ends of justice" do not confer unlimited jurisdiction on the High Court and the alleged abuse of the process of law or the ends of justice could only be secured in accordance with law including procedural law and not otherwise. Further, inherent powers are in the nature of extraordinary powers to be used sparingly for achieving the object mentioned in Section 482 of the Code in cases where there is no express provision empowering the High Court to achieve the said object. It is well-neigh settled that inherent power is not to be invoked in respect of any matter covered by specific provisions of the Code or if its exercise would infringe any specific provision of the Code. In the present case, the High Court



overlooked the procedural law which empowered the convicted accused to prefer statutory appeal against conviction of the offence. The High Court has intervened at an uncalled for stage and soft-pedalled the course of justice at a very crucial stage of the trial.

11. The Supreme Court in **B.S. Joshi V State of Haryana** (2003) 4 SCC 675 held that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and section 320 of the Code does not limit or affect the powers under section 482 of the Code. The Supreme Court in **Manoj Sharma V State & others**, (2008) 16 SCC 1 considered issue whether a FIR under sections 420/468/471/34/120-B IPC can be quashed either under section 482 of the Code or under Article 226 of the Constitution when the accused and the complainant have compromised and settled the matter between themselves. The Supreme Court observed that ultimate exercise of discretion under section 482 of the Code or under Article 226 of the Constitution is with the court which has to exercise such jurisdiction in the facts of each case. It has been explained that the said power is in no way limited by the provisions of Section 320 of the Code. It was observed as under:-

8. Once the complainant decided not to pursue the matter further, the High Court could have taken a more pragmatic view of the matter. We do not suggest that while exercising its powers under Article 226 of the Constitution the High Court could not have



refused to quash the first information report, but what we do say is that the matter could have been considered by the High Court with greater pragmatism in the facts of the case.

9. ...In the facts of this case we are of the view that continuing with the criminal proceedings would be an exercise in futility....

12. The Supreme Court in **Sushil Suri V Central Bureau of Investigation and another**, (2011) 5 SCC 708, considered the scope and ambit of the inherent jurisdiction of the High Court and observed as under:-

16. Section 482 Code of Criminal Procedure itself envisages three circumstances under which the inherent jurisdiction may be exercised by the High Court, namely, (i) to give effect to an order under Code of Criminal Procedure; (ii) to prevent an abuse of the process of court; and (iii) to otherwise secure the ends of justice. It is trite that although the power possessed by the High Court under the said provision is very wide but it is not unbridled. It has to be exercised sparingly, carefully and cautiously, *ex debito justitiae* to do real and substantial justice for which alone the Court exists.

13. The power of compounding and quashing of criminal proceedings in exercise of inherent powers are not equal or inter-changeable 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 another**, (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.

14. The Supreme Court in **Gian Singh V State of Punjab and others**, (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.

15. The Supreme Court in State of Madhya Pradesh V Laxmi Narayan & others, (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.

16. 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.”

17. The Supreme Court in **Daxaben V The State of Gujrat & others**, 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.

18. The inherent powers under section 482 of the Code can be used to prevent abuse of process of law and to secure the ends of justice. The Supreme Court in **Gian Singh** as referred hereinabove laid down that inherent power under section 482 of the Code is required to be exercised to secure the ends of justice or to prevent abuse of the process of any court and power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and victim have settled their dispute depending on the facts and circumstances of each case. However the Supreme Court



cautioned that for exercise of inherent power due regard must be given to the nature and gravity of the crime and observed that heinous and serious offences such as murder, rape, decoity, etc. cannot be quashed even despite settlement of disputes between the victim and the offender as these offences are not private in nature and have serious impact on society. It was further observed that that the criminal cases having overwhelmingly and predominatingly civil favour stand on different footing for quashing including 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 as these disputes are private or personal in nature and the parties have resolved entire dispute. The High Court may also quash criminal proceedings where possibility of conviction is remote and bleak and continuation of criminal case is causing great oppression and prejudice to the accused and extreme injustice would be caused to him and to put an end to criminal case would be appropriate. The Supreme Court in **State of Madhya Pradesh V Laxmi Narayan & others**, Criminal Appeal No 349/2019 decided on 05.03.2019 besides reiterating principles laid down in **Gian Singh** case observed that while exercising the power under section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, 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. The Supreme Court in **Ramgopal & another V State of Madhya Pradesh** observed that the High Court after considering peculiar facts and circumstances of a case and for justifiable reasons can press Section 482 of the Code in aid to prevent abuse



of the process of any Court and/or to secure the ends of justice. It was further observed that the High Court can quash non compoundable offences after considering nature of the offence and amicable settlement between the concerned parties. The High Court can evaluate the consequential effects of the offence and need to adopt a pragmatic approach to ensure that quashing is not paralyze the very object of the administration of criminal justice system. It was further observed that a restrictive construction of inherent powers under Section 482 of the Code may lead to rigid or specious justice which may lead to grave injustice.

19. As observed in **Ramgopal & another V State of Madhya Pradesh** the High Court need to adopt a pragmatic approach to ensure that quashing is not paralyze the very object of the administration of criminal justice system and a restrictive construction of inherent powers under Section 482 of the Code may lead to rigid or specious justice which may lead to grave injustice.

28. The Supreme Court in case of **State of Madhya Pradesh V Laxminarayan & Ors.** (2019) 5 SCC 688 as cited by the Additional Public Prosecutor , Observed as under:-

13. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

- i) 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;**
- ii) 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;

iii) similarly, such power is not to be exercised for the offences under the special statutes like 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;

iv) 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/delegate 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. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

v) 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. Insofar as the present case is concerned, the High Court has quashed the criminal proceedings for the offences under Sections 307 and 34 IPC mechanically and even when the investigation was under progress. Somehow, the accused managed to enter into a compromise with the complainant and sought quashing of the FIR on the basis of a settlement. The allegations are serious in nature. He used the fire arm also in 26 commission of the offence. Therefore, the gravity of the offence and the conduct of the accused is not at all considered by the High Court and solely on the basis of a settlement between the accused and the complainant, the High Court has mechanically quashed the FIR, in exercise of power under Section 482 of the Code, which is not sustainable in the eyes of law. The High Court has also failed to note the antecedents of the accused.

15. In view of the above and for the reasons stated, the present appeal is allowed. The impugned judgment and order dated 07.10.2013 passed by the High Court in Miscellaneous Criminal Case No. 8000 of 2013 is hereby quashed and set aside, and the FIR/investigation/criminal proceedings be proceeded against the accused, and they shall be dealt with, in accordance with law.

20. The Supreme Court in **P. Dharamraj V Shanmugam & Ors.**, 2022 SCC OnLine SC 1186 observed as under:-

42. Thus it is clear from the march of law that the Court has to go slow even while exercising jurisdiction under Section 482 Cr.PC or Article 226 of the Constitution in the matter of quashing of criminal proceedings on the basis of a settlement reached between the parties, when the offences are capable of having an impact not merely on the complainant and the accused but also on others.



21. The petitioner and the respondent nos.2 & 3 belong to the lower strata of the society and are poor persons. They have settled their dispute amicably vide Settlement Agreement/Memorandum of Understanding stated to be executed on 15.07.2023. The petitioner is not habitual offender and his antecedents are clear. The facts of the **Laxmi Narayan** case can be distinguished from the present case. In case of **Laxmi Narayan** the accused had used the firearms and the FIR was also registered under the provisions of the Arms Act, 1959. In the present case, only the vegetable cutter was used and the offence punishable under the provisions of Arms Act, 1959 was not attracted.

22. After considering all facts, the present petition is allowed and FIR bearing no. 269/2022 dated 05.07.2022 registered under section 307 IPC at P.S. Tigri along with consequential judicial proceedings stated to be pending in the Court of Ms. Shailendra Kaur, Principal District and Sessions Judge (South District), Saket Court, New Delhi is quashed subject to the payment of cost of Rs.25,000/- to be paid by the petitioner which shall be deposited with the Delhi High Court Staff Welfare Fund SB A/c No.15530110074442 maintained with UCO Bank, Delhi High Court within 15 days from today and thereafter, the receipt be produced before the concerned Trial Court on the next date of hearing.

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

DR. SUDHIR KUMAR JAIN, J

JULY 21, 2023/j/sd