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

+ **CRL.M.C. 534/2024**

SH. LOVE BHUSHAN GUPTA

..... Petitioner

Through: Ms.Sapna Malik, Advocate alongwith
Petitioner in person.

versus

THE STATE OF NCT OF DELHI & ANR.

..... Respondents

Through: Ms.Shubhi Gupta, APP for State with
SI Kuldeep Singh, PS: VK North.

Mr.Utkarsh Soni, Advocate for R-2 along with
R-2/Complainant in person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **23.01.2024**

CRL.M.A. Nos.2111-12/2024 (exemptions)

1. Allowed, subject to all just exceptions.
2. Applications stand disposed of.

CRL.M.C. 534/2024 and CRL.M.A. 2110/2024 (stay)

3. This petition has been filed on behalf of the Petitioner under Section 482 Cr.P.C. seeking quashing of FIR No.0467/2022 dated 11.12.2022 under Sections 354/354A/509 IPC registered at PS: Vasant Kunj North including Charge Sheet and proceedings emanating therefrom, predicated on a settlement between the Petitioner and Respondent No.2/Complainant.
4. As per the case of the prosecution, the present FIR was registered against the Petitioner on a complaint made by the Respondent No.2 before the SHO, Police Station Vasant Kunj North, District South West, Delhi.

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Case of the prosecution is that the prosecutrix worked in Sharp Edge Management Consultancy Private Limited, Zirakpur, Chandigarh, Punjab as a Personal Assistant to the Petitioner. On 10.12.2022, both came to Delhi for an event and booked a hotel in Mahipalpur. Petitioner booked only one room despite opposition by the Complainant and finally, the Complainant got another room for herself. Next morning, Petitioner called the Complainant to his room for packaging and collecting the other material lying there and suddenly started forcing himself on the Complainant and touching her inappropriately. Complainant ran away from the room and lodged a complaint culminating in the present FIR. After investigation, charge sheet dated 21.03.2023 was filed and matter is pending before the Trial Court.

5. During the pendency of the criminal proceedings, parties have amicably resolved their disputes and differences with the intervention of well-wishers and relatives and a Compromise Deed dated 19.09.2023 was executed between the Petitioner and Respondent No. 2, copy of which has been filed alongwith the petition.

6. Issue notice.

7. Learned APP accepts notice on behalf of the State.

8. Mr. Utkarsh Soni, learned counsel accepts notice on behalf of Respondent No.2.

9. Petitioner and Respondent No.2 are present in Court and are identified by their respective counsels as well as the Investigating Officer SI Kuldeep Singh, PS: VK North. Respondent No. 2 has taken the Court to the Compromise Deed dated 19.09.2023 and submits that she has entered into the settlement out of her free will and without any force or coercion and wants to put a quietus to this litigation to move forward in life. She states



that she has no objection to the FIR being quashed. Learned APP also submits that since the parties have settled their disputes and the prosecutrix does not want to prosecute the complaint, she leaves the decision to the Court.

10. The Supreme Court has delineated the parameters within which the inherent powers under Section 482 Cr.P.C. must be exercised by the High Court. It has been affirmed and re-affirmed that the extraordinary powers should be sparingly exercised and with care and caution and can be used to prevent abuse of the process of Court or to secure ends of justice and in each case, it would be dependent on the facts and circumstances that arise. In ***Gian Singh v. State of Punjab and Another, (2012) 10 SCC 303***, the Supreme Court held as follows:-

“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.

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58. Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the



crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.

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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. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the 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 predominatingly civil flavour stand on a 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, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the 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 the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

11. In a later judgment in the case of ***Narinder Singh and Others v. State of Punjab and Another***, (2014) 6 SCC 466, the Supreme Court reiterated the proposition and relevant paragraphs are as follows:-

“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.”

12. In ***Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and Others v. State of Gujarat and Another, (2017) 9 SCC 641***, the Supreme Court has reiterated the parameters for exercising inherent jurisdiction under Section 482 Cr.P.C. for quashing of FIR/criminal complaint and relevant passages are as follows:-

“16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions :

16.1. Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court.

16.2. The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

16.3. In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.

16.4. While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court.

16.5. The decision as to whether a complaint or first information report



should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated.

16.6. In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.

16.7. As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned.

16.8. Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

16.9. In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

16.10. There is yet an exception to the principle set out in propositions 16.8. and 16.9. above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.”

13. It would be relevant to refer to the view taken by this Court in the case of **Akashsharma v. State & Anr., 2017 SCC OnLine Del 8152**, where the Court while quashing an FIR under Sections 354/354A/341 IPC held as under:-

“9. The inherent powers of the High Court ought to be exercised to prevent the abuse of process of law and to secure the ends of justice. The



respondent no. 2 agreed to the quashing of the FIR in question and stated that the matter has been settled out of her own free will. As the matter has been settled and compromised amicably, so, there would be an extraordinary delay in the process of law if the legal proceedings between the parties are carried on. So, this Court is of the considered opinion that this is a fit case to invoke the jurisdiction under Section 482 Cr.P.C. to prevent the abuse of process of law and to secure the ends of justice.

10. The incorporation of inherent power under Section 482 Cr.P.C. is meant to deal with the situation in the absence of express provision of law to secure the ends of justice such as, where the process is abused or misused; where the ends of justice cannot be secured; where the process of law is used for unjust or unlawful object; to avoid the causing of harassment to any person by using the provision of Cr.P.C. or to avoid the delay of the legal process in the delivery of justice. Whereas, the inherent power is not to be exercised to circumvent the express provisions of law.

11. It is a settled law that the inherent power of the High Court under Section 482 Cr.P.C. should be used sparingly. The Hon'ble Apex Court in the case of *State of Maharashtra through CBI v. Vikram Anatrai Doshi* and in the case of *Inder Singh Goswami v. State of Uttaranchal* has observed that powers under Section 482 Cr.P.C. must be exercised sparingly, carefully and with great caution. Only when the Court comes to the conclusion that there would be manifest injustice or there would be abuse of the process of the Court if such power is not exercised, Court would quash the proceedings.

12. It is a well settled law that where the High Court is convinced that the offences are entirely personal in nature and therefore do not affect public peace or tranquility and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, pursuing prosecution would be waste of time and energy. Non-compoundable offences are basically an obstruction in entering into compromise. In certain cases, the main offence is compoundable but the connected offences are not. In the case of *B.S. Joshi v. State of Haryana* (2003) 4 SCC 675 the Hon'ble Apex Court observed that even though the provisions of Section 320 Cr.P.C. would not apply to such offences which are not compoundable, it did not limit or affect the powers under Section 482 Cr.P.C. The Hon'ble Apex Court laid down that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, section 320 Cr.P.C. would not be a bar to the exercise of power of quashing. In the nutshell, the Hon'ble Apex Court justified the exercise of powers under Section 482 Cr.P.C. to quash the proceedings to secure the ends of justice in view of the special facts and circumstances of the case, even where the offences were non-compoundable.



13. In the light of the aforesaid, this Court is of the view that notwithstanding the fact the offence under Section 354 is a non-compoundable offence, there should be no impediment in quashing the FIR under this section, if the Court is otherwise satisfied that the facts and circumstances of the case so warrant.

14. In the facts and circumstances of this case and in view of statement made by the Respondent No. 2 the FIR in question warrants to be put to an end and proceedings emanating thereupon need to be quashed.”

14. This Court in ***Laishram Premila Devi and Others v. State and Others, 2021 SCC OnLine Del 1323*** while dealing with two petitions for quashing of FIRs under Sections 509/506/323/341/354/354A and 34 IPC quashed the FIRs on the ground that the Complainant had amicably settled the matter with the Petitioners out of her own free will and it would be an unnecessary abuse of the process of law if the legal proceedings are carried on.

15. In view of the settlement between the parties and the stand of Respondent No.2, in my view, it would be futile to proceed with the criminal proceedings as the chances of conviction are extremely bleak and remote and instead it will serve the ends of justice in the facts of this case, if the proceedings are terminated. Thus, this Court finds no impediment in quashing the FIR in the interest of justice and is fortified in its view by the judgments of this Court in ***Rajesh Vinayak v. State and Another, 2019 SCC OnLine Del 7721*** and ***Mange Ram Sharma v. State of NCT of Delhi and Another, 2017 SCC OnLine Del 7933***, where Courts have quashed FIRs under similar provisions, predicated on settlement between the parties. Accordingly, FIR No.0467/2022 dated 11.12.2022 under Sections 354/354A/509 IPC registered at PS: Vasant Kunj North including Charge Sheet and proceedings emanating therefrom are hereby quashed.



16. Petition along with pending application stands disposed of in the aforesaid terms.

JYOTI SINGH, J

JANUARY 23, 2024/du/kks