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

+ **CRL.M.C. 786/2024**

GAURAV AGGARWAL AND ANR

..... Petitioners

Through: Mr. Abhishek Rana and Mr. Rohan
Yadav, Advocates.

versus

THE STATE (NCT OF DELHI) AND ANR

..... Respondents

Through: Mr. Digam Singh Dagar, APP for
State with SI Amit Bhardwaj.

Mr. Rajiv Tehlan, Mr. Akshay Kochar and Ms.
Savita, Advocates for R2 along with R2 in person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

01.02.2024

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CRL.M.A. 3161/2024 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CRL.M.C. 786/2024

3. This petition has been filed by the Petitioners under Section 482 Cr.P.C. for quashing of FIR No. 661/2020 dated 12.11.2020 registered under Sections 420/406/34 IPC at PS: Shalimar Bagh including the proceedings emanating therefrom.
4. It is the case of the Petitioners that in the first week of November, 2018, Petitioner No.1 and Smt. Meena Aggarwal (now deceased) approached Respondent No. 2 for the purpose of selling the agricultural land bearing khasra no. 23/2(0-18), 22/2 (1-02) and 22/1 (1-02) situated in the revenue estate of Village Nangli Poona, Delhi as they were in urgent need of



money. Respondent No.2 is stated to have executed, thereafter, a Receipt-cum-Agreement dated 22.11.2018 and paid the earnest money.

5. It is the case of the Petitioners that Respondent No. 2 asked for No Objection Certificate with respect to property in question, however, due to unavoidable circumstances, Petitioners were unable to provide the same. Respondent No. 2 filed a police complaint on 09.01.2019 against the Petitioners and other accused namely, Meena Aggarwal and Rakesh Aggarwal and also gave a written complaint to Deputy Commissioner of Police, North-West, vide Diary No.3651 on 08.04.2019. On 18.04.2019, Respondent No. 2 filed an application under Section 156(3) Cr.P.C. for registration of the FIR and on the directions of the Court, the present FIR was registered.

6. During the pendency of the criminal proceedings, Petitioners and Respondent No. 2 settled all their disputes amicably with the intervention of well-wishers and friends and executed a Settlement Agreement dated 22.12.2020, incorporating the terms of settlement. Copy of the Settlement Agreement has been filed with the petition. Accused Meena Aggarwal, in the meantime, expired on 27.12.2020 while Rakesh Aggarwal passed away on 29.10.2022. Respondent No. 2 had earlier filed a Civil Suit being CS DJ 651/2021 seeking declaration and mandatory and permanent injunction against Petitioner No.1, which has been withdrawn post the settlement between the parties.

7. Issue notice.

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

9. Mr. Rajiv Tehlan, learned counsel accepts notice on behalf of Respondent No.2.



10. Respondent No. 2/Complainant namely Mr. Rishi Pal Bansal is present in Court and has been identified by the Investigating Officer, SI Amit Bhardwaj and submits that the balance amount towards the sale consideration has been paid to the Petitioners and possession of the property has been handed over to the Complainant. Title deeds of the property were executed and the property has also been sold by the Complainant to a third party. In view of this, Respondent No. 2 gives his No Objection to the quashing of the present FIR. Learned APP for the State submits that since parties have amicably settled their disputes and pending litigation has been withdrawn, the State leaves the decision of quashing of the FIR to this Court. It is, however, added that Charge Sheet has not been filed and the offences alleged to be committed by the Petitioners under Sections 406 and 420 IPC are compoundable.

11. The Supreme Court in *Gian Singh v. State of Punjab and Another, (2012) 10 SCC 303*, observed that while exercising inherent powers under Section 482 Cr.P.C. in respect of quashing of an FIR where parties have entered into amicable resolution of the disputes, one of the considerations would be whether it would be unfair or contrary to the interest of justice to continue the criminal proceedings despite the compromise and if the answer to the question is in the affirmative, the High Court would be well within its jurisdiction to quash the criminal proceedings, in order to ensure that the disputes are put to an end and peace is restored as securing the ends of justice is the ultimate guiding factor. This was of-course with a caveat that heinous and serious offences of mental depravity or offences like murder, dacoity etc. cannot be fittingly quashed even though the victim or the victim's family settles the disputes with the offender. Relevant paragraphs of



the judgment are 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.”

12. 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.”

13. It is a settled law that inherent powers under Section 482 Cr.P.C. are required to be exercised to secure the ends of justice and/or prevent abuse of the process of the Court. The Supreme Court in the case of ***Nikhil Merchant v. Central Bureau of Investigation and Another, (2008) 9 SCC 677***, has



observed that despite the ingredients and the factual content of an offence of cheating being punishable under Section 420 IPC, the same has been made compoundable under sub-section (2) of Section 320 Cr.P.C., with the leave of the Court. Co-ordinate Benches of this Court in ***Harvinder Singh Tokas and Another v. State and Another, 2019 SCC OnLine Del 8523*** and ***Karan Sharma v. State of NCT of Delhi and Another, 2023 SCC OnLine Del 875***, have quashed FIRs under similar provisions predicated on amicable settlement between the parties.

14. From the conspectus of the aforesaid judgments, one of the principles that can be succinctly culled out for exercise of inherent powers under Section 482 Cr.P.C. is that the inherent jurisdiction is to prevent abuse of process of Court and/or to secure ends of justice as ends of justice are higher than ends of mere law and this is premised on the principle that inherent powers have been vested to do real, complete and substantial justice. This is of course not without a caveat that Courts must steer clear of intervention in cases, which involve heinous or serious offences involving mental depravity or economic offences and those which fall in the category of offences relating to murder, extortion, dacoity, cases under the Arms Act, 1959 etc.

15. Parties have mutually settled all their disputes. Respondent No. 2 has made a categorical statement that he has paid the entire money and the possession of the property in question has been handed over to him and thus, he does not wish to pursue the complaint. In these facts and circumstances, chances of conviction are bleak and it would be in the interest of justice to terminate the criminal proceedings. Accordingly, the FIR No. 661/2020 dated 12.11.2020 registered under Section 420/406/34



IPC at PS: Shalimar Bagh is hereby quashed including the proceedings emanating therefrom.

16. Petition stands disposed of in the aforesaid terms.

JYOTI SINGH, J

FEBRUARY 01, 2024*/akc/DU/shivam*