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

+ **CRL.M.C. 813/2024**

LAXMAN KAROTIA & ORS. Petitioners

Through: Mr. Alamgir, Advocate.

versus

THE STATE NCT OF DELHI & ORS. Respondents

Through: Mr. Digam Singh Dagar, APP for
State alongwith SI Anil Kumar P.S. Delhi Cantt.
Respondents No.2 and 3 in person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **16.02.2024**

CRL.M.A. 3264/2024 (exemption)

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

CRL.M.C. 813/2024

3. This petition has been filed on behalf of the Petitioners under Section 482 Cr.P.C. seeking quashing of FIR No. 84/2013 dated 16.03.2013 under Sections 308/341/34 IPC registered at PS: Delhi Cantt. including proceedings emanating therefrom.
4. As per the case of the prosecution, Complainant Arun filed a complaint alleging that on 16.03.2013 when he was riding on his motorcycle with his niece, who was 02 years and 06 months old and reached Jharera Chowk, Aakash, Rahul, Ajju and Anil came and insisted on giving his



motorcycle and when the Complainant refused to part with the same, Rahul hit him with an iron rod while Aakash hit with a danda and Anil caught the Complainant and pushed him to the wall while Ajju gave fist blows. Laxman and Ram Singh hit Complainant's brother Sachin who by now had arrived at the spot. Subsequently, the present FIR was lodged. Charge Sheet was filed on 24.09.2016. Prosecution evidence is concluded and the trial is at the stage of defence evidence.

5. It is stated in the petition that during the pendency of the proceedings before the Trial Court, Respondents No. 2 and 3 have resolved the disputes and settled the matter amicably with the intervention of family and friends. Memorandum of Understanding was executed on 02.12.2023, copy of which has been filed with the petition. Nature of injuries has been opined to be simple in the MLC and in light of this, it is prayed that the FIR be quashed.

6. Issue notice.

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

8. Petitioners and Respondents No. 2 and 3 are present in Court and are identified by IO SI Anil Kumar P.S. Delhi Cantt. Respondents No. 2 and 3 state that they have no objection to the quashing of the FIR as the matter has been amicably settled between the parties, who are also related to each other and continuing the criminal proceedings will once again lead to acrimony between them. Learned APP does not object to the quashing of the FIR as parties have settled the matter. He, however, states that the FIR was registered in 2013 and the matter is at the stage of defence evidence and therefore, if the Court is inclined to quash the FIR, costs may be imposed as State machinery has been misused by the Petitioners for nearly 10 years.



9. 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.”

10. The Supreme Court in ***Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and Others v. State of Gujarat and Another, (2017) 9 SCC 641***, 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.”

11. Parties have mutually settled all their disputes and differences. In view of the settlement between the parties and the categorical stand of Respondent Nos.2 and 3 that they do not want to pursue the complaint, no useful purpose will be achieved in continuing the criminal proceedings emanating from the subject FIR as the chances of conviction are bleak and it would be in the interest of justice that the proceedings are terminated. This Court is fortified in its view by the judgments of this Court in ***Bharat Lal and Ors. v. State in CRL.M.C. 988/2012, decided on 20.03.2012*** and ***Manpreet Singh v. State and Ors. in CRL.M.C. 2574/2011, decided on 10.01.2012***, where the Courts have quashed FIRs under similar provisions, predicated on settlement between the parties, in the interest of justice.

12. Accordingly, FIR No. 84/2013 dated 16.03.2013 under Sections 308/341/34 IPC registered at PS: Delhi Cantt., is quashed including proceedings emanating therefrom.

13. No doubt, parties have amicably resolved all their disputes but it cannot be overlooked that the FIR was registered in 2013 and for nearly 10 years the Police and the State machinery has been used by the parties. In these circumstances, it is directed that quashing of the FIR will be subject to Petitioners paying a sum of Rs. 5,000/- each in favour of DHCBA Lawyers Social Security & Welfare Fund, Account No. 15530100009730, UCO Bank, Delhi High Court, within a period of eight weeks from today, proof



whereof shall be filed in this Court within a week thereafter. In case of non-compliance, petition will be listed by the Registry before the Court.

14. Petition stands allowed and disposed of. Pending application also stands disposed of.

JYOTI SINGH, J

FEBRUARY 16, 2024/ssc