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

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+ CRL.M.C. 837/2024

HARPAL SINGH YADAV & ORS.

..... Petitioners

Through: Mr. R.K. Burman, Advocate along
with Petitioners in person.

versus

THE STATE OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Digam Singh Dagar, APP for
State with SI Saroj Bala, P.S. Maurya Enclave.

Mr. Kumar Mukesh, Mr. Praveen Rao and Mr.
Ankit Yadav, Advocates for R-2 to 4 along with
R-2 to 4 in person.

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+ CRL.M.C. 863/2024

HITESH YADAV & ORS.

..... Petitioners

Through: Mr. Kumar Mukesh, Mr. Praveen Rao
and Mr. Ankit Yadav, Advocates along with
Petitioners in person.

versus

THE STATE OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Digam Singh Dagar, APP for
State with Insp. Naresh Kumar and IO SI Sanjeev
Kumar, P.S. Maurya Enclave.

Mr. R.K. Burman, Advocate for R-2 to 4 along
with R-2 to 4 in person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH



ORDER

07.02.2024

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CRL.M.A. 3365/2024 (exemption) in CRL.M.C. 837/2024
CRL.M.A. 3453/2024 (exemption) in CRL.M.C. 863/2024

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

CRL.M.C. 837/2024

CRL.M.C. 863/2024

1. CRL.M.C. 837/2024 has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.386/2017 dated 03.09.2017 under Sections 323/354A/506/34 IPC registered at P.S. Maurya Enclave including proceedings emanating therefrom. The Complaint culminating into the registration of the aforesaid FIR was filed by Respondent No. 2/ Complainant against the Petitioners who are the family members of the Complainant's brother-in-law.
2. CRL.M.C. 863/2024 has been filed for quashing FIR No.385/2017 dated 03.09.2017 under Sections 323/341/354/354A/354B/34 IPC at P.S. Maurya Enclave including proceedings emanating therefrom. The Complaint culminating into the registration of the aforesaid FIR was filed by Respondent No. 2/Complainant against the Petitioners who are the family members of the Complainant's uncle-in-law.
3. For the sake of understanding, father-in-law of Respondent No. 2 in CRL.M.C. 863/2024 is Petitioner No. 1 in CRL.M.C. 837/2024, while husband of Respondent No. 2 in CRL.M.C. 837/2024 is Petitioner No. 1 in CRL.M.C. 863/2024.
4. Case of the prosecution is that on 03.09.2017, a complaint was received which was diarised under DD No. 14A and on reaching the spot of



alleged incident, it was found that injured were taken to Bhagwan Mahavir Hospital, Pitampura in a PCR vehicle. MLCs of both the complainants were obtained and complaints were registered against the accused. Prosecution case in FIR No. 386/2017 is that the Complainant alleged sexual assault on her by her brother-in-law, Harpal Singh Yadav who lives on the ground floor of the same house. As per allegations, when the Complainant was coming down the stairs of her house, her brother-in-law held her hand and inappropriately touched her private parts. In the meantime, other members of brother-in-law's family came to the spot and started beating the Complainant. They were holding a knife like thing in their hands and sprayed chilli spray in the eyes of the Complainant. Mahesh tried to drag the daughter of the Complainant by her hair. However, when the neighbours gathered, the Complainant and her family members were freed and thereafter taken to the hospital and treated.

5. As per the allegations in FIR No. 385/2017, Complainant alleged that at 11:00AM her uncle-in-law along with his three children and wife came to the ground floor and abused in filthy language and asked the Complainant to open the door of the house. On resistance, they pushed open the door and started manhandling and using abusive language. Himanshu and Harsh both dragged Complainant's husband out of the house and beat him. Hitesh and his wife and daughter took the Complainant and her mother-in-law out of the house and Priya caught her hand while Hitesh caught the hands of her mother-in-law. Hitesh was holding a knife and attempted to hit them. The incident was captured in a CCTV camera. The uncle-in-law made indecent gestures and touched the Complainant's private parts.



6. Cross-FIRs have been registered against the accused which are subject matter of the present petitions. Complainants and accused are related to each other and live nearby. From the Charge Sheets, it is evident that as per the MLCs, the nature of injuries was opined to be simple. During pendency of the proceedings, with the intervention of common friends and well-wishers, parties have amicably settled the matter and a Compromise/Settlement Deed has been executed on 10.01.2024 incorporating the terms of settlement, copy of which has been filed with the petition. Respective parties were granted bail by the Courts. Both petitions are supported by affidavits of the Complainants stating that they have no objection to the quashing of the cross-FIRs in view of the settlement.

7. Issue notice.

8. Learned APP accepts notice on behalf of the State in both the petitions.

9. Mr. Kumar Mukesh, learned counsel accepts notice on behalf of Respondents No.2 to 4 in CRL.M.C. 837/2024 while Mr. R.K. Burman, learned counsel accepts notice on behalf of Respondents No.2 to 4 in CRL.M.C. 863/2024.

10. In CRL.M.C. 837/2024, Petitioners, Respondent No.2/Complainant and other injured persons/Respondents No.3 & 4 are present in Court and are identified by their respective counsels as well as by the Investigating Officer SI Saroj Bala, P.S. Maurya Enclave. In CRL.M.C. 863/2024, Petitioners, Respondent No.2/Complainant as well as Respondents No.3 and 4 are present in Court and are identified by their respective counsels as well as by Investigating Officer SI Sanjeev Kumar, P.S. Maurya Enclave.



11. Complainants state that parties have always enjoyed cordial relationships with each other and are close relatives. The incident resulting in the present FIRs was triggered by a minor exchange of words between the parties on the spur of the moment and none had any intent to cause harm or injury to the other. Peace and harmony have been restored between the parties and the Complainants do not wish to prosecute the complaints so that there is no acrimony. It is thus submitted that the FIRs be quashed. Learned APP has no objection to the quashing of the FIRs in view of the settlement between the parties.

12. The Supreme Court in ***Gian Singh v. State of Punjab and Another, (2012) 10 SCC 303***, observed that while dealing with the issue of quashing of an FIR where the parties enter into amicable resolution of disputes, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceedings despite a compromise between the victim and the wrong doer and if the answer to the question is in the affirmative, the High Court would be within its jurisdiction to quash the criminal proceedings. Relevant paragraphs 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.”

13. 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.”

14. In ***Shiji alias Pappu and Others v. Radhika and Another***, (2011) 10 SCC 705, considering the exercise of inherent powers by the High Court under Section 482 Cr.P.C. in the context of non-compoundable offence observed that merely because an offence is not compoundable under Section 320 Cr.P.C. is no reason by itself for the High Court to refuse the exercise of its inherent power for quashing an FIR. There is no doubt on the legal proposition that the inherent powers have to be sparingly exercised with great caution and only where the Court comes to a conclusion that there would be manifest injustice or abuse of the process of the Court if the power is not exercised that the Court would quash the proceedings. 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. This Court also in *Deepak and Others v. State (NCT of Delhi) and Another, 2023 SCC OnLine Del 6583* while dealing with a petition for quashing of an FIR under Sections 354/506/323/341/34 IPC quashed the FIR on the ground that the Complainant had amicably settled the matter with the Petitioner 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.

16. This Court in *Akashsharma v. State & Anr., 2017 SCC OnLine Del 8152*, while dealing with a petition for quashing of an FIR under Sections 354/354A/341 IPC quashed the FIR on the ground that the Complainant had amicably settled the matter with the Petitioner 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.

17. In the present case, the cross-FIRs are a result of complaints made by the Complainants, who are related to the Petitioners on account of an argument on the spur of moment which escalated into a minor scuffle. Parties have reconciled their differences and settled the matter. Injuries on the respective Complainants and other injured persons have been opined to be simple in nature. In view of the settlement between the parties and the stand of the Complainants, 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 these cases if the proceedings are terminated and parties are left to live peacefully. Accordingly, notwithstanding that the offence under Section 354 IPC is non-compoundable, this Court finds no impediment in quashing the FIRs in the interest of justice, in exercise of the inherent jurisdiction. This Court is fortified in its view by the decisions of this Court in *Devi Singh and Ors. v.*



The State (NCT of Delhi) and Ors., in CRL.M.C. 8361/2023, decided on 16.11.2023 and Umesh Pal and Ors. v. The State and Others, in CRL.M.C. 8724/2023, decided on 30.11.2023, where the Courts have quashed FIRs under similar provisions, predicated on settlements between the parties, in the interest of justice.

18. Accordingly, FIR No.386/2017 dated 03.09.2017 under Sections 323/354A/506/34 IPC registered at P.S. Maurya Enclave and FIR No.385/2017 dated 03.09.2017 under Sections 323/341/354/ 354A/354B/34 IPC at P.S. Maurya Enclave are quashed including proceedings emanating therefrom, subject to the Petitioners in both the petitions paying Rs.5,000/- each in favour of Delhi High Court Advocates Welfare Trust bearing A/c No. 15530210002995, UCO Bank, Delhi High Court, within a period of twelve weeks from today. Proof in support thereof shall be filed with the Registry within 01 week thereafter and in case of failure to comply with the direction, the matters will be listed by the Registry in Court.

19. Petitions stand disposed of in the aforesaid terms.

JYOTI SINGH, J

FEBRUARY 07, 2024/kks