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

+ **W.P.(CRL) 370/2024**

AJMAL QURASHI

..... Petitioner

Through: Mr. Anuj Arora and Mr. Dayanand
Sharma, Advocates.

versus

STATE NCT OF DELHI AND ANR.

..... Respondents

Through: Ms. Rupali Bandhopadhyaya,
Additional Standing Counsel with SI Ravi Yadav,
PS-Lajpat Nagar, for State.
Respondent No.2 in person with Translator.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

18.03.2024

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1. This petition has been filed on behalf of Petitioner under Article 226 of Constitution of India read with Section 482 Cr.P.C. seeking quashing of FIR No. 788/2023 dated 24.12.2023 registered under Sections 380/411 IPC at PS: Lajpat Nagar, including proceedings emanating therefrom.
2. Petitioner is an Afghan National and living in India as a UN Refugee. On 24.12.2023, Respondent No.2/victim, who was living on rent at A-16, Lajpat Nagar-II, Delhi, shifted to B-15, Lajpat Nagar-II, Delhi. As per the case of prosecution, soon after shifting, Respondent No.2 realised that her bag containing US\$ 30,000 had been left behind at the earlier rented premises, after which she called the complainant Esam S/o Byen to help her in finding the bag, since Respondent No.2 did not know either English or Hindi language. Both the complainant and Respondent No.2 thereafter went



to the earlier location and enquired about their money from the Petitioner, who was the caretaker of the said premises. Money was, however, not found and accordingly a complaint of theft was lodged. Police searched the premises and found US\$ 1700 in a bag lying in the room and US\$ 800 were recovered from the scooty. FIR was registered and Petitioner was arrested but subsequently released on bail on 02.01.2024.

3. During the pendency of the criminal proceedings, with the intervention of friends and well-wishers, petitioner and victim have arrived at an amicable settlement and she does not want to proceed further with the complaint as per the terms of the settlement. Predicated on this settlement, present petition has been filed seeking quashing of the FIR.

4. Issue notice.

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

6. Respondent No.2 and the complainant/Translator are present in Court and are identified by Investigating Officer SI Ravi Yadav. Respondent No.2 has been made to understand the proceedings and states that she has entered into the settlement out of her own free will and without any pressure and since money has been recovered, she does not wish to proceed with the complaint and has no objection if the FIR is quashed. Complainant also gives his no objection in support of present petition.

7. Considering that the parties have amicably resolved their disputes, learned ASC leaves the decision to the Court.

8. 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.”

9. In view of the settlement between the parties and the categorical stand of Respondent No.2 that she does 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.

10. Accordingly, FIR No. 788/2023 dated 24.12.2023 registered under Sections 380/411 IPC at PS: Lajpat Nagar, is quashed including proceedings emanating therefrom.

11. Petition stands allowed and disposed of.

JYOTI SINGH, J

MARCH 18, 2024

B.S. Rohella/DO