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

+ **CRL.M.C. 922/2024**

INDERJIT KAUR & ANR.

..... Petitioners

Through: Mr. N.K. Kukreja, Advocate with
Petitioners in person.

versus

THE STATE NCT OF DELHI AND ORS.

..... Respondents

Through: Mr. Digam Singh Dagar, APP for
State with SI Kapil Beniwal, PS: Mayapuri and SI
Hareti Lal, PS: Punjabi Bagh.

Md. Qamar Ali, Advocate for R-2 to R-4 with
Respondent No. 2 in person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **06.02.2024**

CRL.M.A. 3713/2024 (exemption)

Allowed, subject to all just exceptions.

Application stands disposed of.

CRL.M.C. 922/2024

1. This petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No. 208/2019 dated 22.09.2019 under Section 304A IPC registered at P.S.: Mayapuri, Delhi, including proceedings emanating therefrom. Respondent No. 2 is the widow of late Md. Sameer Khan and Respondents No. 3 and 4 are the minor children.

2. As per the case of prosecution, on 22.09.2019, information was received on phone that one Md. Sameer Khan had fallen from first floor while repairing the machine at the factory premises of the Petitioners and succumbed to the injuries suffered. Resultantly, the present FIR was registered against Petitioner No. 1, who is the owner of the factory located at C-153, Phase-I, First Floor, Mata Mandir Wali Gali, Mayapuri, New Delhi,



where he carries on the business in the name and style of M/s. Hartz Trade Link, a sole proprietorship firm. Petitioner No. 2, who works as a Manager, is accused No.2 in the FIR.

3. After the unfortunate accident, wife of the deceased filed a petition before the Labour Commissioner under the Employee's Compensation Act, 1923, bearing No. EAR(D)18/SWD/2019/1643, titled "*Smt. Bushra Anwari and Others v. Smt. Inderjeet Kaur and Another*", claiming compensation for herself and her minor children. During the pendency of the proceedings before the Labour Commissioner, parties amicably resolved their disputes and a Memorandum of Understanding (MoU) dated 17.01.2024 was executed, copy of which has been filed along with the petition. According to the terms of MoU, it was mutually agreed that Petitioner No. 1 shall pay a sum of Rs.6,50,000/- to Respondent No. 2 in full and final settlement of the claims, out of which Rs.3,00,000/- was payable at the time of quashing of present FIR. Upon payment of Rs.3,50,000/-, claim petition filed before the Labour Commissioner was withdrawn by Respondent No.2.

4. Issue notice.

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

6. Md. Qamar Ali, learned counsel accepts notice on behalf of Respondents No. 2 to 4.

7. Learned counsel appearing for the Petitioners seeks quashing of the FIR on the ground that no negligence can be attributed to the Petitioners as the fall of the deceased was a sheer accident as also that the matter has been settled with Respondent No. 2 for a sum of Rs.6,50,000/-, out of which a sum of Rs.3,50,000/- was paid to her earlier and balance amount of Rs.3,00,000/- has been paid today by way of Demand Draft bearing



No.160106 dated 29.01.2024 for a sum of Rs.3,00,000/- drawn on Punjab and Sind Bank. Additionally, a sum of Rs.50,000/- has also been paid to Respondent No. 2, for her minor children.

8. Petitioners and Respondent No.2 are present in Court and are identified by their respective counsels and the Investigating Officer SI Kapil Beniwal, PS: Mayapuri. Respondent No.2 acknowledges the receipt of balance amount of Rs.3,00,000/- as well as an additional sum of Rs.50,000/- and submits that she does not wish to pursue the litigation any further as she understands that the death of her husband was a mere accident and no negligence can be attributed to the Petitioners. Learned APP states that a undoubtedly a human life is lost, however, under the given facts and circumstances, Court may invoke inherent powers under Section 482 Cr.P.C. to quash the FIR since chances of conviction are bleak and continuing the proceedings may be an abuse of the process of law.

9. The Supreme Court has in several judgments delineated the parameters, within the four corners of 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.”

10. **In *State of Madhya Pradesh v. Laxmi Narayan and Others*, (2019) 5**



SCC 688, the Supreme Court elucidated the principles for exercise of inherent powers by the High Court under Section 482 Cr.P.C., as follows:-

“15.1. That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2. Such power is not to be exercised in those prosecutions which involved 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;

15.3. Similarly, such power is not to be exercised for the offences under the special statutes 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;

15.4. xxx xxx xxx

15.5 While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise, etc.”

11. In *Ramgopal and Another v. State of Madhya Pradesh, 2021 SCC OnLine SC 834*, the Supreme Court held as follows:-

“11. True it is that offences which are ‘non-compoundable’ cannot be compounded by a criminal court in purported exercise of its powers under Section 320 Cr.P.C. Any such attempt by the court would amount to alteration, addition and modification of Section 320 Cr.P.C, which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320 Cr.P.C., which may justify its wider interpretation and include such offences in the docket of ‘compoundable’ offences which have been consciously kept out as non-compoundable. Nevertheless, the limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking



inherent powers by the High Court vested in it under Section 482 Cr.P.C. The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482 Cr.P.C. in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.

12. *The High Court, therefore, having regard to the nature of the offence and the fact that parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under Section 482 Cr.P.C., even if the offences are non-compoundable. The High Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyze the very object of the administration of criminal justice system.*

13. *It appears to us that criminal proceedings involving non-heinous offences or where the offences are pre-dominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post-conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extra-ordinary power under Section 482 Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482 Cr.P.C. may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in Narinder Singh v. State of Punjab, (2014) 6 SCC 466 and Laxmi Narayan (Supra).*

14. *In other words, grave or serious offences or offences which involve moral turpitude or have a harmful effect on the social and moral fabric of the society or involve matters concerning public policy, cannot be construed betwixt two individuals or groups only, for such offences have the potential to impact the society at large. Effacing abominable offences through quashing process would not only send a wrong signal to the*



community but may also accord an undue benefit to unscrupulous habitual or professional offenders, who can secure a 'settlement' through duress, threats, social boycotts, bribes or other dubious means. It is well said that "let no guilty man escape, if it can be avoided."

12. The Supreme Court in ***Sushil Suri v. Central Bureau of Investigation and Another, (2011) 5 SCC 708*** considered the scope and ambit of the inherent jurisdiction of the High Court and observed as under:-

"16. Section 482 CrPC itself envisages three circumstances under which the inherent jurisdiction may be exercised by the High Court, namely, (i) to give effect to an order under CrPC; (ii) to prevent an abuse of the process of court; and (iii) to otherwise secure the ends of justice. It is trite that although the power possessed by the High Court under the said provision is very wide but it is not unbridled. It has to be exercised sparingly, carefully and cautiously, ex debito justitiae to do real and substantial justice for which alone the Court exists."

13. Co-ordinate Benches of this Court in ***Mahesh Chandra and Ors. V. The State and Ors., CRL.M.C. 8673/2023, decided on 29.11.2023*** and ***Sh. Nitin Verma v. State and Ors., CRL.M.C. 254/2022, decided on 02.03.2023*** have quashed FIRs under Section 304A IPC on the basis of settlement between the parties where it was found that the accused were not responsible for the alleged incidents and/or the accident was beyond their control. While it is true that no amount of money can be a compensation for loss of life, however, the monetary compensation may help the legal heirs of the deceased to tide over their present penury and aid in overcoming the financial difficulties arising due to loss of an earning member of the family. Circumstances of the case point to the death of late Sameer Khan being accidental as a result of fall in the factory premises. This Court sees no impediment in exercising the inherent powers under Section 482 Cr.P.C. to terminate the criminal proceedings as the chances of conviction seem bleak and further litigation may only cause agony to the legal heirs of the



deceased, a sentiment which the wife of the deceased expressed during the course of hearing.

14. Accordingly, FIR No. 208/2019 dated 22.09.2019 under Section 304A IPC registered at P.S.: Mayapuri as well as the Charge Sheet and proceedings emanating therefrom are hereby quashed.

15. Petition stands disposed of in the aforesaid terms.

JYOTI SINGH, J

FEBRUARY 06, 2024/shivam