



\$~65

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

CRL.M.C. 1304/2024

SUSHIL KUMAR ALIAS JOSEPH PETER Petitioner

Through: Mr. Tushar Mahajan, Mr.
Aseem Kumar Sahay and
Mr. Bhaavan Mahajan,
Advs.
Petitioner in person.

versus

STATE GOVT OF NCT OF DELHI
& ANR.

..... Respondents

Through: Mr. Hitesh Vali, APP for
the State with ASI Nathu
Lal, PS Sangam Vihar and
PSI Tulsi Nagar, PS CR
Park.
Mr. Sharan Mehta, Adv.
for R-2.
R-2 in person.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

%

19.02.2024

**CRL.M.A. 5137/2024 (exemption from filing certified copies of
impugned orders and other documents) & CRL.M.A. 5138/2024
(exemption from filing fair / legible copies of certain annexures
along with affidavit)**

1. Exemptions allowed, subject to all just exceptions.
2. The applications stand disposed of.

CRL.M.C. 1304/2024

3. The present petition is filed under Section 482 of the Code
of Criminal Procedure, 1973 (**CrPC**) for quashing of the FIR No.
173/2019 dated 09.11.2019, registered at Police Station

CRL.M.C. 1304/2024

Page 1 of 7



Chitranjan Park, for offence under Sections 279/337 of the Indian Penal Code, 1860 ('IPC') and all consequential proceedings arising therefrom.

4. The FIR was registered on a complaint filed by one Amar Babu, who is arrayed as Respondent No. 2 in the present petition. The charge sheet has already been filed.

5. It is alleged that on 08.11.2019 while the complainant was going to pick up his daughter from school, his bike was hit by a car, due to which he sustained injuries and got the treatment from AIIMS Trauma Center. It is alleged that the accident was caused by the Car driven by the Petitioner.

6. It is submitted that petitioner was employed as a driver and has left his job since then.

7. The Respondent No.2 also filed a motor accident Claim Petition before the Motor Accidents Claim Tribunal ('MACT'), Saket Court, District South - East, New Delhi bearing no. MACT/148 /2020 titled *Amar Babu (DAR) v. Sushil Kumar (FIR no.173/19)*.

8. It is submitted that the MACT Case was settled in *Lok Adalat* on 19.03.2023, wherein the Respondent No.2 received a compensation of Rs. 10,50,000/-, from the insurance company.

9. The learned Additional Public Prosecutor objects to the quashing of the present FIR on the ground of settlement. He submits that the injuries sustained by the victim were grievous.

10. The parties claim to have settled the dispute, on their own free will and without any pressure, coercion, undue influence or duress of any nature and have entered into a settlement agreement dated 09.02.2024.

11. The complainant is present in Court and submits that he has fully recovered from the injuries and he is satisfied with the



amount received in the proceedings filed before the MACT and does not wish to pursue the proceedings arising out of the said FIR.

12. The parties are present in person and have been duly identified by the Investigating Officer.

13. Offence under Section 279 IPC is non-compoundable whereas offence under Section 337 of IPC is compoundable.

14. It is well settled that the High Court while exercising its powers under Section 482 of the CrPC can compound offences which are non-compoundable under the Code on the ground that there is a compromise between the accused and the complainant. The Hon'ble Apex Court has laid down parameters and guidelines for High Court while accepting settlement and quashing the proceedings. In **Narinder Singh & Ors. v. State of Punjab & Anr. : (2014) 6 SCC 466**, the Hon'ble Apex Court has observed as under :-

“29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

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.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.”

(emphasis supplied)

15. Similarly, in **Parbatbhai Aahir & Ors v. State of Gujarat & Anr.** : (2017) 9 SCC 641, the Hon’ble Apex

CRL.M.C. 1304/2024

Page 4 of 7



Court has observed as under:

“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.”

(emphasis supplied)



16. From the perusal of FIR and the documents annexed with the present petition, it appears to be a case of accident. It is not alleged that the petitioner was driving under the influence of alcohol or any other intoxicating substance. Given the fact that the complainant has already been compensated and has settled with the petitioner, it would be improbable to secure a conviction in the facts of the present case.

17. Keeping in view the aforesaid principle and the nature of dispute and the fact that the parties have amicably entered into a settlement, this Court feels that no useful purpose would be served by keeping the dispute alive and it is a fit case where discretionary jurisdiction under Section 482 of the CrPC can be exercised and the proceedings are quashed.

18. In view of the above, the FIR No. 173/2019 and all consequential proceedings are, therefore, quashed.

19. The petition is allowed in aforementioned terms.

AMIT MAHAJAN, J

FEBRUARY 19, 2024

'KDK'