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

+ **W.P.(CRL) 660/2024**

SH RACHIT SHARMA AND ANR Petitioners

Through: Ms. Sujata Ray, Adv.
Both the petitioners in
person.

versus

THE STATE GOVT OF NCT OF DELHI
AND ORS

..... Respondents

Through: Ms. Rupali Bandhopadhyaya,
ASC for the State with Mr.
Abhijeet Kumar, Adv.
with SI Balu Ram, PS
Najafgarh.
Respondent Nos. 2 to 5 in
person.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **26.02.2024**

CRL.M.A. 6095/2024 (exemption from filing certified copies of annexures / documents)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The present petition is filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (**CrPC**) for quashing of the FIR No. 0552/2023 dated 15.12.2023, registered at Police Station Najafgarh, for offences under Sections 287/337 of the Indian Penal Code, 1860 (**'IPC'**) and all consequential proceedings arising therefrom.

4. The FIR was registered by the police on an information received by them *vide* a GD No. 0092A dated 14.12.2023.

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5. It is alleged that on 02.12.2023, the deceased Ram Nath Paswan while was working on a machine along with one other labourer, who is arrayed as Petitioner No. 2 in the present petition, got hit in the machine and sustained grievous injuries. On 17.12.2023, Ram Nath Paswan succumbed during the course of treatment.

6. It is averred that Petitioner No. 1, who is the owner of the factory, was not present at the time of the accident and the entire expenses incurred upon the treatment and last rites of the deceased were borne by Petitioner No. 1.

7. The present petition has been filed on the ground that the parties have, by way of Agreement-cum-Settlement Deed dated 03.01.2024, settled their dispute on their own free will and consent and without any force, coercion or undue influence.

8. It is submitted that the deceased have two siblings – namely, Nitul Kumari (Respondent No.2 herein) and brother namely, Shiv Nath Paswan (Respondent No.3 herein). It is submitted that the since the brother of the deceased / Respondent No.3 is married, it is agreed between parties that the entire settlement amount shall go to the Respondent No.2 that is, unmarried sister of the deceased, who is presently residing with Respondent Nos. 4 and 5, who are stated to be Uncle and Aunt of the deceased.

9. In terms of the settlement dated 03.01.2024, out of the total amount of ₹6,00,000/-, ₹2,00,000/- already stands paid in the name of Respondent No. 2, who is the unmarried sister of the deceased. The remaining amount of ₹4,00,000/- has been handed over to Respondent No. 2 in Court today in the form of a Demand Draft No. 520547 dated 26.02.2024 drawn on ICICI Bank, Dwarka.

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10. The learned Additional Standing Counsel for the State has opposed the quashing of the present FIR on the ground that a person has lost his life and adequate compensation has not been given.

11. The learned counsel for the petitioners on instructions submits that the Petitioner No.1 is further willing to pay ₹2,00,000/- to Respondent No.2.

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

13. Respondent No. 2 to 5 submit that they have no objection if the present FIR and proceedings arising therefrom, are quashed.

14. In addition to the settlement amount of ₹6,00,000/- the Petitioner No.1 is directed to transfer a sum of ₹2,00,000/- in the Bank account of Respondent No.2.

15. Offence under Section 287 IPC is non-compoundable whereas offence under Section 337 of IPC is compoundable.

16. 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)

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

18. 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 No. 1 had been negligent in keeping the machinery in his premises or that the accidents occurred on regular basis and despite that no steps were taken to rectify the errors.

19. In view of the aforesaid and the fact that the unmarried sister of the deceased has already been compensated and the parties have settled their disputes, it would be improbable to secure a conviction in the facts of the present case.

20. 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.

21. In view of the above, the FIR No. 0552/2023 and all consequential proceedings are, therefore, quashed subject to Petitioner No.1 depositing an additional a sum of ₹2,00,000/- in



the Bank account of Respondent No.2.

22. The Petitioner No.1 is directed submit the proof of deposit with the concerned Investigating Officer.

23. The Investigating Officer is also directed to confirm the same from Respondent No.2

24. The petition is allowed in aforementioned terms.

AMIT MAHAJAN, J

FEBRUARY 26, 2024

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