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

+ **CRL.M.C. 1939/2024**

SANJAY KUMAR GUPTA & ANR.Petitioners

Through: Mr. Raghvendra Narayan
Budholia & Mr. Palav
Agarwal, Adv. along with
P-1 & P-2.

versus

GOVT OF NCT OF DELHI & ANR. Respondents

Through: Mr. Pradeep Gahalot, APP
for the State along with
Adv. Ramandeep Singh.
Insp. Amit Pratap, PS
EOW.
Ms. Imon Roy, Adv. for
R-2 along with R-2.

**CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN**

**ORDER
09.04.2024**

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1. The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 ('CrPC') seeking quashing of FIR No.160/2010 dated 19.11.2010, for the offence under Section 63 of the Copyright Act, 1957, registered at Police Station Economic Offences Wing, including all consequential proceedings emanating therefrom. The FIR was registered on a complaint given Respondent No.2 on behalf of the Microsoft Corporation (hereafter '**complainant company**'). Chargesheet has been filed in the present case.

2. Respondent No.2 is the authorised representative of the complainant company and has been delegated the power to make

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the present complaint by Mr. Rakesh Bakshi, who is the Constituted Power of Attorney of the complainant company.

3. It is stated that complainant company is the owner of copyrights in various computer programs developed by it. It is stated that no person has the right to use the software belonging to the complainant without the licence / permission / consent of the complainant company. A complaint was made by Respondent No.2 on 28.07.2010 that some unknown persons were indulging in the piracy of the complainant company's software in Delhi. It is alleged that the same was causing severe losses to the complainant company in terms of money, goodwill and reputation. Pursuant to the same, on 19.11.2010, Respondent No.2 informed the police officials that Petitioner No.1 was selling the pirated version of Microsoft software from his premises.

4. It is submitted by the petitioners that prior to the present petition, the petitioners had filed similar petition under Section 482 of the CrPC before this Court for quashing of the FIR No.160/2010, but the same was withdrawn due to some typographical errors on 27.09.2018 with liberty to file afresh.

5. The trial against the petitioners in the present FIR No. 160/2010 is pending before the learned Trial Court, wherein the submission of the parties has been recorded that they are willing to settle the matter.

6. The present petition has been filed on the ground that the parties have amicably settled their dispute, on their own free will, without any coercion, influence or pressure.

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

8. The learned counsel for the complainant submits that the

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Power of Attorney dated 15.07.2017, whereby Respondent No.2 has been duly authorised to represent the complainant company, is also annexed with the present petition.

9. Respondent No. 2, on being asked, submits that the matter has been amicably resolved. He submits that the complainant company does not wish to pursue the proceedings arising out of the present FIR and has no objection if the same is quashed.

10. Offence under Section 63 of the Copyright Act is not compoundable.

11. 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)



12. 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)

13. 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 continuation of the proceedings would be an abuse of process of law. In the opinion of the Court, it is a fit case where discretionary jurisdiction under Section 482 of the CrPC can be exercised and the proceedings are quashed.

14. However, considering the fact that the chargesheet has been filed and State Machinery was put into motion, ends of justice would be met, if the petitioners are put to cost.

15. In view of the above, FIR No.160/2010 and all consequential proceedings arising therefrom are quashed, subject to payment of a cost of ₹5,000/- by the petitioners respectively, to be deposited with the Delhi Police Welfare Fund, within a period of eight weeks from date.

16. The present petition is allowed in the aforesaid terms.

AMIT MAHAJAN, J

APRIL 9, 2024

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