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

+ CRL.M.C. 1313/2022 & CRL.M.A. 5756/2022

GAURAV RASTOGI

.....Petitioner

Through: Mr. Rajeev Gupta, Mr.
Anis Khan, Mr. Vijay
Goswami, Mr. Sandeep
Yadav, Advocates
(Through V.C.) alongwith
Petitioner-in-Person.

versus

STATE OF NCT OF DELHI
& ANR.

.....Respondents

Through: Mr. Sunil Kumar Gautam,
APP for the State.
Ms. Shweta Kapoor & Ms.
Jayshree, Advocates
alongwith Mr. Vinod
Behrani, AR for Kotak
Mahindra Bank/R-2.
SI Rajesh Kumar (P.S.
Deshbandhu Gupta Road).

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

05.11.2024

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1. The present petition is filed essentially seeking quashing of FIR No. 184/2008 dated 16.06.2008, registered at Police Station D.B.G. road, for offences under Sections 406/420/468/471/120B of the Indian Penal Code, 1860 ('IPC') qua the petitioner, including all consequential proceedings arising therefrom.

2. Charges have been framed against the petitioner for the offences under Sections 467/471/420 of the IPC and Section



120B read with Sections 467/471/20 of the IPC.

3. The FIR was registered on a complaint given by Respondent No.2/bank alleging that a loan has been obtained by the co-accused on the strength of forged documents. It is alleged that the petitioner had executed the alleged forged document in favour of the co-accused persons who had then obtained loan from the bank on the strength of the same.

4. The learned counsel for the petitioner submits that the entire amount that had been allegedly cheated has been repaid and the matter has been amicably settled by the petitioner with Respondent No.2 bank.

5. He submits that even though the loan was obtained by the co-accused persons, however, to put an end to the dispute, the outstanding loan amount has been repaid by the petitioner and a further amount of ₹50,000/- has been paid by the petitioner as litigation expenses. He submits a “no due certificate” has been issued in respect of the concerned loan account as well.

6. The petitioner is present in person and he is identified by the Investigating Officer.

7. Respondent No.2 is represented through its Manager– Mr. Vinod Behrani. He is duly identified by the learned counsel for Respondent No.2.

8. On being asked, Mr. Vinod Behrani states that since the entire amount has been recovered, the Respondent No.2 bank has no objection if the petitioner is discharged in the present FIR.

9. Offences under Sections 420/406 of the IPC are compoundable whereas offences under Sections 467/468/471 of the IPC are non-compoundable.

10. It is well settled that the High Court while exercising its powers under Section 482 of the Code of Criminal Procedure,



1973 ('CrPC') can quash 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 the case of **Narinder Singh & Ors. v. State of Punjab & Anr. : (2014) 6 SCC 466**, the Hon'ble Apex Court had 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 moral 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)

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

12. It has been noted in the aforesaid cases that criminal cases involving a predominantly civil character can be quashed when the parties have settled the dispute. Keeping in view the nature of the dispute and 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 continuance of the proceedings would amount to abuse of the process of Court. I am of the opinion that this is a fit case to exercise discretionary jurisdiction under Section 482 of the CrPC.

13. In view of the above, FIR No. 184/2008 and all consequential proceedings arising therefrom are quashed *qua* the present petitioner and the petitioner is discharged from the



present FIR.

14. It is pointed out that the other accused persons have been declared as proclaimed offenders. It is made clear that this Court has not impeded the learned Trial Court from proceeding against the other accused persons.

15. The present petition is disposed of in the aforesaid terms. Pending application also stands disposed of.

AMIT MAHAJAN, J

NOVEMBER 5, 2024

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