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

+ **W.P.(CRL) 835/2024**

MOHD MEHTAB & ORS.

..... Petitioners

Through: Mr. Haneef Mohammad, Mr. Mubashshir Javaid Siddiqui and Mr. Kamal, Advocates.

versus

THE STATE GOVT. OF NCT OF DELHI AND ANR.

..... Respondents

Through: Ms. Nandita Rao, ASC for State with Mr. Amit Peswani, Advocate and SI Manjeet Singh, PS: Cyber Cell/ New Delhi.
Ms. Rajni and Ms. Simran, Advocates for R2 with R2 in person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

03.04.2024

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1. This petition has been filed by the Petitioners under Articles 226/227 of the Constitution of India read with Section 482 Cr.P.C. for quashing of FIR No. 44/2023 dated 22.12.2023 under Section 420 IPC registered at PS: Cyber Police Station, New Delhi along with proceedings emanating therefrom.

2. Case of the prosecution is that the FIR was registered on the complaint of Ajay Malhotra, who alleged that he received a promotional offer on eggs and chicken and accordingly used his ICICI Bank Credit Card to transact for a sum of Rs.98/-. After putting in the OTP, he received a message from ICICI Bank that he had been charged Rs.52,792/-. Complaint



was lodged by Respondent No.2 with the CC Fraud Department of ICICI Bank and the Cyber Police Station. After the FIR was registered, investigation was initiated and all Petitioners were arrested.

3. It is averred in the petition that during the pendency of the bail applications, Petitioners herein and the complainant expressed their willingness to settle the matter and after some negotiations and discussions, the disputes were settled. As per the terms of settlement, Petitioners paid a sum of Rs.54,000/- to Respondent No.2 and as per the status report, Petitioners No.1 and 2 were granted bail by the learned CMM on 19.01.2024 while Petitioner No.3 was granted bail on 03.02.2024. Thereafter, a Settlement Agreement was executed between the parties on 12.02.2024 wherein the settlement amount was recorded and Respondent No.2 agreed to co-operate in quashing of the present FIR. Copy of the Settlement Agreement is filed along with the petition.

4. Petitioners and Respondent No. 2 are present in the Court and identified by the Investigating Officer SI Manjeet Singh, PS: Cyber Cell/ New Delhi. Respondent No. 2 acknowledges receipt of Rs.54,000/- and states that he has no objection to the quashing of the FIR against the three Petitioners herein. Learned ASC, on instructions, states that no other complaint has so far been received against the Petitioners and the website was taken down within two days of the alleged incident. It is, however, pointed out that one of the co-accused, Chandan Upadhyay, who is the mastermind of the entire scam, has been taken into custody on 02.04.2024 and he has not settled the matter with Respondent No.2. In this view, it is urged that in case the Court is inclined to quash the FIR, it can only be done qua the three Petitioners herein.



5. The Supreme Court in *Gian Singh v. State of Punjab and Another*, (2012) 10 SCC 303, observed that while exercising inherent powers under Section 482 Cr.P.C. in respect of quashing of an FIR where parties have entered into amicable resolution of the disputes, one of the considerations would be whether it would be unfair or contrary to the interest of justice to continue the criminal proceedings despite the compromise and if the answer to the question is in the affirmative, the High Court would be well within its jurisdiction to quash the criminal proceedings, in order to ensure that the disputes are put to an end and peace is restored as securing the ends of justice is the ultimate guiding factor. This was of-course with a caveat that heinous and serious offences of mental depravity or offences like murder, dacoity etc. cannot be fittingly quashed even though the victim or the victim's family settles the disputes with the offender. Relevant paragraphs of the judgment are 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.”

6. In a later judgment in the case of ***Narinder Singh and Others v. State of Punjab and Another***, (2014) 6 SCC 466, the Supreme Court reiterated the proposition and relevant paragraphs are as follows:-

“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.”

7. Parties have mutually settled all their disputes. Settlement amount has been paid to Respondent No. 2, who has made a categorical statement that he does not wish to pursue the complaint qua the Petitioners herein. In these facts and circumstances, the chances of conviction are remote and it would be in the interest of justice to terminate the criminal proceedings. This Court is fortified in its view by the decisions of the Co-ordinate Benches of this Court in **Anita Sharma and Anr. v. The State (Govt. of NCT of Delhi) and Ors., in CRL.M.C. 567/2022, decided on 01.08.2022** and **Shakuntala and Ors. v. State (Govt. of NCT of Delhi) and Ors., in CRL.M.C. 3744/2023, decided on 23.05.2023**, wherein FIRs under similar provisions have been quashed by the Courts, based on mutual settlements between the parties.

8. Accordingly, FIR No. 44/2023 dated 22.12.2023 under Section 420 IPC registered at PS: Cyber Police Station, New Delhi is quashed qua Petitioners No.1 to 3 herein, along with proceedings emanating therefrom. It is made clear that this Court has not expressed any opinion on the merits of the case pertaining to the other co-accused and quashing of the FIR against



present Petitioners is purely on account of settlement between them and the complainant.

9. Petition stands allowed and disposed of.

APRIL 3, 2024/DU

JYOTI SINGH, J