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

+ CRL.M.C. 2165/2024 and CRL.M.A. 8408/2024

JITENDER SHARMA & ANR.

..... Petitioners

Through: Mr. Vipin Gupta, Advocate with
Petitioners in person.

versus

THE STATE & ORS.

..... Respondents

Through: Mr. Digam Singh Dagar, APP with SI
Sunit, PS-Jagat Puri, for State.
Mr. Mohit Dhawa, Advocate for and
along with R-2 & 3 in person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

18.03.2024

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1. This petition has been filed on behalf of the Petitioners under Section 482 Cr.P.C. seeking quashing of FIR No. 337/2017 dated 01.12.2017 registered under Sections 323/354/506/509/34 IPC at PS: Jagat Puri, including proceedings emanating therefrom. Charge sheet has been filed.
2. Case of the prosecution is that a complaint was received wherein the Complainant stated that on 25.11.2017, her mother-in-law expired and her son booked a car with the Petitioner No.1 for travelling to Haridwar to perform the last rites of her mother-in-law. However, when the booked car did not reach despite several phone calls, Complainant's son booked another car and she left for Haridwar in the second car. On the way, Petitioner No.1 called Complainant's son and was informed that since he had not sent the car on time, they had hired another vehicle.



3. As per the allegations, at about 11:00AM on 31.11.2017, Petitioner No.1 came to the Complainant's shop when her son was also present and demanded Rs.1,500/- for the car booking, which her son refused to pay and on this Petitioner No.1 started abusing Complainant's son and hearing the noises, the neighbours gathered and tried to pacify Petitioner No.1. Petitioner No.1 did not stop abusing and picked-up a Bamboo stick from a nearby house and before he could give beatings, the neighbour snatched the stick from him. Petitioner No.1 became more aggressive and seeing that he was fighting with her son, Complainant slapped him to make him understand. Soon thereafter, Petitioner No.1's brother Rahul also came at the spot on a motorcycle and abused the Complainant, held her hand, slapped her two or three times on her face, hit her on her breast and pushed her, due to which she fell on the ground and suffered injuries. Complainant's son dialled 100 number and called the police. Petitioners thereafter fled away from the spot. MLC was conducted and the complaint led to registration of the present FIR.

4. It is further stated that during the pendency of the case, Petitioners and Respondents No.2 and 3 have amicably settled their disputes and differences before Delhi Mediation Centre, Karkardooma Courts, Delhi on 13.12.2022. Copy of the order recording the settlement has been filed along with the petition. In view of the settlement, present petition has been filed by the Petitioners praying that the FIR be quashed *albeit* it is noticeable that some of the offences against the Petitioners are compoundable.

5. Issue notice.

6. Learned APP accepts notice on behalf of the State.

7. Mr. Mohit Dhawa, learned counsel accepts notice on behalf of



Respondents No.2 & 3.

8. Petitioners and Respondents No.2 & 3 are present in Court and are identified by their respective counsels as well as Investigating Officer SI Sunit, PS: Jagat Puri. Respondents No.2 & 3 submit that they have no objection to the FIR being quashed since the matter has been amicably resolved with the Petitioners before the Delhi Mediation Centre, Karkardooma Courts, Delhi. Learned APP also has no objection to the quashing of the FIR, in view of the settlement between the parties.

9. Supreme Court in ***Gian Singh v. State of Punjab and Another, (2012) 10 SCC 303***, observed that while dealing with the issue of quashing of an FIR where the parties enter into amicable resolution of disputes, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceedings despite a compromise between the victim and the wrong doer and if the answer to the question is in the affirmative, the High Court would be within its jurisdiction to quash the criminal proceedings. Relevant paragraphs 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.

10. 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.”

11. There is no doubt on the proposition that the inherent powers of a High Court under Section 482 Cr.P.C. should be exercised sparingly and with great caution. Needless to state that only when the Court comes to a conclusion from the facts and circumstances of the case that continuing the criminal proceedings would result in injustice or would manifest in abuse of the process of the Court, that it would exercise the inherent power and quash the proceedings and not otherwise. These observations have been made by the Supreme Court from time to time and I may refer to two judgments in this context in the cases of ***State of Maharashtra through Central Bureau of Investigation v. Vikram Anantrai Doshi and Others, (2014) 15 SCC 29*** and ***Inder Mohan Goswami and Another v. State of Uttaranchal and Others, (2007) 12 SCC 1***. It is equally well settled that in a case where the High Court is convinced that the alleged offences are personal in nature and do not affect public peace or tranquility and quashing of proceedings on the basis of a compromise or settlement would secure the ends of justice, it should exercise the power to quash the proceedings.

12. In the present case, parties have settled their disputes and as recorded before the Mediation Centre, Settlement Agreement was executed with



respect to offences under Sections 323/506/34 IPC. In the agreement, it was agreed that for non-compoundable offence i.e. under Section 354 IPC, Petitioners shall seek appropriate remedies and Complainants shall cooperate in the quashing. In ***B.S. Joshi v. State of Haryana, (2003) 4 SCC 675***, the Supreme Court has observed that even though provisions of Section 320 Cr.P.C. would not apply to offences which are non-compoundable, it does not limit or affect the powers under Section 482 Cr.P.C.

13. In view of the facts and circumstances of the case and the stand of the Complainants, no purpose will be achieved in continuing the criminal proceedings as the chances of conviction are bleak. This Court is fortified in its view by the decisions of the Co-ordinate Benches of this Court in ***Sunil Kochar & Anr. v. The State of NCT of Delhi & Ors., CRL.M.C.7972/2023***, decided on 02.11.2023 and ***Swaran Lata & Ors. v. The State Through SHO Vikas Puri & Anr., CRL.M.C. 7677/2023***, decided on 05.12.2023, where the Courts have quashed FIRs under same provisions predicated on settlements between the parties, in the interest of justice.

14. Accordingly, FIR No. 337/2017 dated 01.12.2017 registered under Sections 323/354/506/509/34 IPC at PS: Jagat Puri, is hereby quashed including proceedings emanating therefrom.

15. Petition stand disposed of along with pending application.

JYOTI SINGH, J

MARCH 18, 2024

B.S. Rohella