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

+ **CRL.M.C. 2266/2024**

HASHRAT ALI & ORS.

..... Petitioners

Through: Mr. Manish Miglani, Mr. Vishal
Dudeja & Mr. Mohit Miglani, Advocates.

versus

STATE OF NCT DELHI & ORS.

..... Respondents

Through: Mr. Digam Singh Dagar, APP with SI
Anil Kumar, PS-Jamia Nagar, for State.
Mr. Abhyuday Singh, Advocate for Complainant.

+ **CRL.M.C. 2206/2024**

SAOOD AHMAD & ORS.

..... Petitioners

Through: Mr. Manish Miglani, Mr. Vishal
Dudeja & Mr. Mohit Miglani, Advocates.

versus

STATE OF NCT DELHI & ORS.

..... Respondents

Through: Mr. Digam Singh Dagar, APP with SI
Anil Kumar, PS-Jamia Nagar, for State.
Mr. Manish Miglani, Mr. Vishal Dudeja & Mr.
Mohit Miglani, Advocates for R-2 to 6.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

19.03.2024

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CRL.M.A. 8776/2024 (Exemption) in CRL.M.C. 2266/2024 and
CRL.M.A. 8548/2024 (Exemption) in CRL.M.C. 2206/2024

1. Allowed, subject to all just exceptions.
2. Applications stand disposed of.



CRL.M.C. 2266/2024 and CRL.M.A. 8775/2024 (for stay) and
CRL.M.C. 2206/2024 and CRL.M.A. 8595/2024 (for stay)

3. These petitions have been filed for quashing of two cross-FIRs. CRL.M.C. 2266/2024 has been filed for quashing of FIR No. 0118/2019 dated 28.06.2019 registered under Sections 341/323/506/354B/509/34 IPC at PS: Jamia Nagar and CRL.M.C. 2206/2024 has been filed seeking quashing of FIR No. 0127/2019 dated 09.07.2019 registered under Sections 452/323/354B/509/506/34 IPC at PS: Jamia Nagar. Charge sheets have been filed in both the proceedings.

4. FIR No. 0118/2019 was registered on a complaint alleging that complainant's father had given his house for living since her husband Lucky Khan was living in Kanpur, U.P., with whom she had strained relationship. On 26.02.2019, complainant fell sick and called Arbaz to live in her neighbourhood as he was her childhood friend and like a brother to her. She asked him to bring medicines but when he came to her house, he abused the complainant and accused her of running a prostitution racket in the house. Complainant confided with her mother narrating the entire incident and also called the police on 100 number. The harassment did not stop and the accused continued to defame the complainant and given an occasion would also touch her inappropriately. On the fateful day, the accused raised their hands on the complainant's parents and a physical fight broke out, in which Ahmad/Petitioner No.2 herein tore the clothes of the complainant. Complainant and her father suffered injuries and were taken to the hospital. MLCs were obtained and FIR was registered. As per one MLC, nature of injuries was opined to be 'simple' while no declaration was given in the other MLC. FIR No. 0127/2019 was registered pursuant to a complaint,



wherein the Petitioners blamed the complainants in FIR No. 0118/2019 for assault and molestation. The MLC reflected ‘alleged history of physical assault to the complainant’, however, no injury was found.

5. During the pendency of the criminal proceedings, accused persons and complainants in both the FIRs have amicably settled and resolved all their disputes and two separate Memorandums of Understanding have been executed on 27.01.2024, photocopies of which have been filed along with the petitions. It is stated in the MoUs that parties would cooperate with each other in quashing the FIRs and that the settlement has been arrived with the consent of the parties and without any pressure, influence or coercion.

6. Issue notice.

7. Learned APP accepts notice on behalf of State.

8. Counsels, as above, accept notice on behalf of the complainants in the respective petitions. Complainants are present in Court and are identified by Investigating Officer SI Anil Kumar, PS: Jamia Nagar. Complainants state that they have entered into a settlement out of their free will, in order to put an end to the acrimony between the parties and establish peace and harmony so that they can happily live together as good neighbours. Thus, the complainants have no objection to the quashing of the FIRs. Mr. Dagar, learned APP appearing for the State states that the State has no objection to the quashing of the FIRs as parties have settled the matter, however, the FIRs were registered in the year 2019 and since police machinery has been unnecessarily used by the parties to settle their personal scores, quashing may be subject to imposing costs on the Petitioners.

9. 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.”

10. In view of the settlement between the parties and the categorical stand of complainants that they do not want to pursue the complaints, no useful purpose will be achieved in continuing the criminal proceedings emanating from the subject FIRs, as the chances of conviction are bleak and it would be in the interest of justice that the proceedings are terminated. This Court is fortified in its view by the decision of the Co-ordinate Bench of this Court in connected petitions titled ***Pappu and Others v. State of N.C.T. of Delhi and Others, CRL.M.C. 881/2024*** and ***Rajender Kumar and Others v. State of N.C.T. of Delhi and Others, CRL.M.C. 882/2024***, decided on 05.02.2024, wherein Court has quashed the FIRs under same provisions, on the basis of settlement between the parties therein.



11. Accordingly, FIR No. 0118/2019 dated 28.06.2019 registered under Sections 341/323/506/354B/509/34 IPC at PS: Jamia Nagar and FIR No. 0127/2019 dated 09.07.2019 registered under Sections 452/323/354B/509/506/34 IPC at PS: Jamia Nagar are quashed along with charge sheets and proceedings emanating therefrom, subject to each of the Petitioners in both the petitions depositing a sum of Rs.10,000/- each in favour of Bar Council of Delhi, Indigent & Disabled Lawyers Account, A/c No.010104000183451, IDBI Bank, 1/6, Siri Fort Institutional Area, Khel Gaon Marg, New Delhi-110049, within eight weeks from today. Proof of deposit of cost be deposited within one week thereafter. In case of non-compliance with the directions, Registry will list the matter before Court.

12. Petitions stand allowed and disposed of along with pending applications.

JYOTI SINGH, J

MARCH 19, 2024

B.S. Rohella