



\$~102

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

+ **CRL.M.C. 2415/2024**

ASHWANI

..... Petitioner

Through: Mr. Vikram Alung, Advocate with
Petitioner in person.

versus

**STATE GOVT. OF NCT OF DELHI
AND ANR.**

..... Respondents

Through: Ms. Richa Dhawan, APP for State
with SI Annu, PS: Hauz Khas.
Mr. Deepanjali Choudhary, Advocate for R-2 with
Respondent No. 2 in person (through VC).

**CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH**

ORDER
22.03.2024

%

CRL.M.A. 9241/2024 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CRL.M.C. 2415/2024

3. This petition has been filed on behalf of the Petitioner under Section 482 Cr.P.C. seeking quashing of FIR No. 260/2023 dated 18.07.2023 under Sections 354/506/509 IPC registered at PS: Hauz Khas including proceedings emanating therefrom.
4. It is the case of the prosecution that a complaint was received against the Petitioner/accused alleging that he insulted and outraged the modesty of the complainant by calling her names over the phone and sending vulgar



messages about her to the co-workers through WhatsApp. It was alleged that the accused had often asked forgiveness and complainant had forgiven him many a times, but the harassment and bad behavior of the accused continued. She blocked the accused on all her phone numbers, after which he started threatening her in front of the other staff to kill her. His behaviour led to his termination from the office but despite moving on to another employment, he did not stop sending messages against the complainant to other co-workers, names of whom are mentioned in the FIR.

5. It is stated in the petition that during the pendency of the criminal proceedings, parties have resolved all their disputes and differences. A Compromise Agreement has been executed on 13.02.2024/19.03.2024, wherein it was recorded that parties have settled all their disputes and differences, which are subject matter of the present FIR, without any pressure or coercion and complainant shall not pursue the complaint.

6. Petitioner and Respondent No.2 are present in Court and are identified by the Investigating Officer SI Annu, PS: Hauz Khas. Respondent No.2 states that disputes have been amicably resolved and it would not be in the interest of both the parties if the criminal proceedings continue and in this backdrop, Respondent No. 2 gives her no objection to the quashing of the FIR. Learned APP does not object to quashing, as parties have settled the matter and want to put a quietus to the litigation.

7. The 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.

xxx

xxx

xxx

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.

xxx

xxx

xxx

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 predominately 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.”

8. 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.”

9. In ***B.S. Joshi and Others v. State of Haryana and Another*, (2003) 4 SCC 675**, the Supreme Court has observed that Section 320 Cr.P.C. would not be an impediment in quashing non-compoundable offences in exercise of inherent powers under Section 482 Cr.P.C. where the facts and circumstances of the case call upon the Court to do so in the interest of



justice. It has been held in various judgments that power of compounding and quashing of criminal proceedings in exercise of inherent powers are not equal or interchangeable in law. In ***Shiji alias Pappu and Others v. Radhika and Another, (2011) 10 SCC 705***, considering the exercise of inherent powers by the High Court under Section 482 Cr.P.C. in the context of non-compoundable offence observed that merely because an offence is not compoundable under Section 320 Cr.P.C. is no reason by itself for the High Court to refuse the exercise of its inherent power for quashing an FIR. There is no doubt on the legal proposition that the inherent powers have to be sparingly exercised with great caution and only where the Court comes to a conclusion that there would be manifest injustice or abuse of the process of the Court if the power is not exercised that the Court would quash the proceedings. This Court in ***Laishram Premila Devi and Others v. State and Others, 2021 SCC OnLine Del 1323*** while dealing with two petitions for quashing of FIRs under Sections 509/506/323/341/354/354A and 34 IPC quashed the FIRs on the ground that the complainants had amicably settled the matters with the Petitioners out of their own free will and it would be an unnecessary abuse of the process of law if the legal proceedings are carried on.

10. Parties have mutually settled all their disputes and differences. In view of the settlement between the parties and the categorical stand of Respondent No.2 that she does not want to pursue the complaint, no useful purpose will be achieved in continuing the criminal proceedings emanating from the present FIR, 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 a Co-ordinate Bench of this Court in



Ankit Saxena v. State of NCT of Delhi & Anr., CRL.M.C. 3544/2023, decided on 18.05.2023, where the Court has quashed FIR under the same provisions, predicated on a settlement between the parties therein, in the interest of justice.

11. Accordingly, FIR No. 260/2023 dated 18.07.2023 under Sections 354/506/509 IPC registered at PS: Hauz Khas is hereby quashed including all proceedings emanating therefrom.

12. Petition stands allowed and disposed of.

JYOTI SINGH, J

MARCH 22, 2024/shivam