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

+ **CRL.M.C. 2568/2024**

AMARDEEP KAUR SETHI

..... Petitioner

Through: Mr. Anmol Awasthi and Mr. Sanket Gupta, Advocates with Petitioner in person.

versus

STATE OF NCT OF DELHI & ANR.

..... Respondents

Through: Mr. Digam Singh Dagar, APP for State with SI Rajiv Ranjan, PS: Mayapuri.

Ms. Shubhakriti Gaur, Mr. Gaurav Jain, Mr. Manan Popli, Mr. Akash Gupta, Ms. Akshita Goyal, Mr. Atul Malhotra, Ms. Karuna Sharma, Advocates for Respondent No.2 along with Respondent No.2 (through VC).

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

02.04.2024

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CRL.M.A.9808/2024 (Exemption)

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

CRL.M.C. 2568/2024 & CRL.M.A. 9809/2024 (By Petitioner, for de-freezing of the bank accounts)

3. This petition has been filed by the Petitioner under Section 482 Cr.P.C. seeking quashing of FIR No. 240/2023 dated 18.08.2023 under Sections 408/506/120B IPC, registered at PS: Mayapuri, including proceedings emanating therefrom, predicated on a settlement between the Petitioner and Complainant/Respondent No.2 herein.



4. Present FIR was registered on a complaint made by Jai Bhagwan/ Respondent No.2, authorized representative of M/s. Friendshiptimes.com Pvt. Ltd., stating that Petitioner being Senior Sales Manager at Orana Banquet Hall had committed the offence of cheating and forgery and allegedly embezzled more than Rs. 1.2 crores of the company. It was alleged that one customer, namely Alice had booked Orana Banquet Hall but on the plea of deficiency of service, sought refund of Rs. 5 lacs, paid as booking amount. While processing the request for refund, company discovered that only a sum of Rs. 4,25,000/- had been received in the account of the company and after the enquiry, it was clear that it was the Petitioner, who had misappropriated the balance amount having received Rs.5 Lacs from the customer. Inquiry further revealed that Petitioner had been resorting to this practice even on previous occasions and hence a complaint was lodged which led to registration of the present FIR.

5. It is stated in the petition that during the pendency of the criminal proceedings, Petitioner and Respondent No.2/Complainant have amicably resolved their disputes and a Settlement Agreement has been executed on 03.01.2024, incorporating the terms of settlement, wherein it was agreed that Petitioner shall pay an amount of Rs. 35 lacs to the Complainant, in full and final settlement of all the claims of Respondent No.2. It is further stated that the settlement amount has been paid and a receipt executed in proof thereof by the Authorized Representative of the Complainant has been filed along with the petition.

6. Issue notice.

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



8. Learned counsel appearing on behalf of Respondent No.2 accepts notice.

9. Petitioner is present physically in Court while Respondent No.2 has joined the Court proceedings virtually and both are identified by their respective counsels as well as the Investigating Officer SI Rajiv Ranjan, PS: Mayapuri. Respondent No.2 states that since the matter has been settled between him and Petitioner and the entire settlement amount has been received, he has no objection to the quashing of the present FIR. In view of settlement between the parties, learned APP for the State, leaves decision to this Court.

10. 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.”*

11. Parties have mutually settled all their disputes. In view of the



settlement between the parties and the categorical stand of Respondent No.2 that he does not want to pursue the complaint, no useful purpose will be achieved in continuing the criminal proceedings emanating from the subject FIR and it would be in the interest of justice that the proceedings are terminated. This Court is fortified in its view by the decisions of the Co-ordinate Benches of this Court in *Satish Kumar v. The State Govt of NCR of Delhi & Anr*, *Crl.M.C. 6256/2023*, decided on 29.08.2023, and *Suresh Chanchal & Anr v. State NCT of Delhi & Anr.*, *Crl.M.C.420/2020*, decided on 25.01.2023, where the Courts have quashed FIRs under same provisions predicated on settlements between the parties, in the interest of justice.

12. Accordingly, FIR No. 240/2023 dated 18.08.2023 under Sections 408/506/120B IPC, registered at PS: Mayapuri, is hereby quashed including proceedings emanating therefrom, subject to the Petitioner depositing cost of Rs. 20,000/- in favour of Delhi High Court Advocates Welfare Trust (A/c No.15530210002995, UCO Bank, Delhi High Court Branch) within eight weeks from today. Proof in support thereof shall be filed with the Registry within one week thereafter and in case of failure to comply with the said direction, petition will be listed before Court by the Registry.

13. Petition stands allowed and disposed of along with the pending application.

JYOTI SINGH, J

APRIL 2, 2024/DU