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

+ **W.P.(CRL) 1038/2024**

KOMAL GUPTA & ORS.

..... Petitioners

Through: Mr. Ravinder Kr. Yadav,
Mr. Vinayak Sharma &
Mr. Kartikey, Advs.
Along all the three with
Petitioners

versus

STATE OF NCT OF DELHI & ANR. Respondents

Through: Mr. Sanjeev Bhandari
(Adv.) ASC (Criminal)
along with Adv. Anvita
Bhandari, Adv. Kunal
Mittal, Adv. Arjit Sharma
& Adv. Vaibhav Vats.
Insp. Amit Dutt Sharma,
PS Kotla Mubarakpur.
Mr. Suraj Prakash, Adv.
For R-2 along with R-2 in
person.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

02.04.2024

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1. The present petition is filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 ('CrPC') for quashing of FIR No. 363/2023 dated 26.08.2023, registered at Police Station K.M. Pur, for offences under Sections 420/467/468/471/120B of the Indian Penal Code, 1860 ('IPC'). The FIR was registered on a complaint filed by Respondent No. 2.
2. The FIR was registered on a complaint given by the complainant against petitioners for committing offences of forgery of documents, cheating, criminal breach of trust, criminal intimidation, criminal conspiracy etc.

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3. It is stated that Respondent No.2 alongwith his brother, had a Partnership Firm in the name of M/s Standard Store, and were looking for a partner since their business was facing financial crunches. They came in contact with Petitioner No.1.

4. It is alleged that in the year 2018, after discussions, Petitioner No.1 agreed to take over the business of M/s Standard Store. It was agreed that 49% share in the partnership of M/s Standard Store would be transferred to Petitioner No.1 initially, and after the payment of the entire agreed amount, the remaining 51% share of M/s Standard Store would be transferred to Petitioner No.1, as and when such transfer would be permissible, in terms of the policy of the licensing authority, that is, HPCL.

5. After 49% share of of M/s Standard Store was transferred to Petitioner N.1, the dispute arose between the parties as Petitioner No.1 allegedly did not disclose the profits obtained from the business to the complainant and executed a forged Dissolution Deed dated 16.07.2020 transferring the complainant's 51% in the partnership to himself. Petitioner Nos. 2 and 3 were witnesses to the said Dissolution Deed. It is alleged that Petitioner No.1 also submitted the forged Dissolution Deed to the Registrar of Firms and also to HPCL. It is alleged that the Deputy manager, HPCL, namely, Mr. Sandeep Gupta, in connivance with the petitioners accepted the dissolution of the firm on the basis of the said unregistered Dissolution Deed.

6. The present petition is filed on the ground that the parties have amicably and voluntarily resolved all the disputes and differences of their own free will, consent, without any force, pressure and coercion and have also entered into a Settlement Agreement dated 20.03.2024 for a total sum of ₹20 lakhs towards all claims of profit, share etc., in M/s Standard Stores.

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7. Out of the said settlement amount, a sum of ₹10 lakhs already stands paid to the Respondent No.2 and ₹10 lakhs has been paid today by way of a Manager's Cheque bearing No.013947 drawn on HDFC Bank.

8. The learned counsel for the petitioners submits that the complainant has agreed to settle the matter against all the named accused persons, however, Mr. Sandeep Gupta has not been arrayed as a party to the present petition as the main dispute was between present Petitioners and the complainant.

9. Complainant is present in person. He states that the complaint was given on a misunderstanding. The parties were doing business through a partnership firm and some misunderstanding led to registration of the FIR. He states that parties have since resolved their disputes and have no grievance against each other. He further states that he does not want to pursue any proceedings against any of the accused persons since all the misunderstandings have been resolved.

10. The petitioners and Respondent Nos. 2 are present in person in Court. The parties have been duly identified by the Investigating Officer.

11. The parties state that they have amicably resolved their conflict and wish to live their lives peacefully in the future. They undertake to not indulge into any such activities in the future.

12. Offences under Sections 467/468/471/120B of the IPC are non-compoundable whereas offences under Sections 420 of the IPC are compoundable.

13. It is well settled that the High Court while exercising its powers under Section 482 of the CrPC can compound offences which are non-compoundable under the Code on the ground that there is a compromise between the accused and the complainant.

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The Hon'ble Apex Court has laid down parameters and guidelines for High Court while accepting settlement and quashing the proceedings. In ***Narinder Singh & Ors. v. State of Punjab & Anr. : (2014) 6 SCC 466***, the Hon'ble Apex Court has observed as under :-

“29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

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.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.”

(emphasis supplied)

14. Similarly, in ***Parbatbhai Aahir & Ors v. State of Gujarat & Anr. : (2017) 9 SCC 641***, the Hon'ble Apex Court has observed as under :-

“16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions:

16.1. Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court.

16.2. The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

16.3. In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice



would justify the exercise of the inherent power.

16.4. While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court.

16.5. The decision as to whether a complaint or first information report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated.

*16.6. In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. **Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.***

16.7. As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned.

16.8. Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

16.9. In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

16.10. There is yet an exception to the principle set out in propositions 16.8. and 16.9. above. Economic offences involving the financial and economic well-



being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.”

(emphasis supplied)

15. Keeping in view the nature of dispute and that the parties have amicably entered into a settlement, this Court feels that no useful purpose would be served by keeping the dispute alive and continuance of the proceedings would amount to abuse of the process of Court. I am of the opinion that this is a fit case to exercise discretionary jurisdiction under Section 482 of the CrPC.

16. However, keeping in mind the fact that the State machinery has been put to motion, ends of justice would be served if the petitioners are put to cost.

17. In view of the above, FIR No. 363/2023 and all consequential proceedings arising therefrom are quashed, subject to payment of a total cost of ₹20,000/- by the petitioners, to be deposited with the Delhi Police Welfare Fund.

18. Let the proof of deposit of cost be submitted to the concerned SHO

19. The present petition is allowed in the aforesaid terms.

AMIT MAHAJAN, J

APRIL 2, 2024

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