



\$~60

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

+ **CRL.M.C. 2852/2024**

ABHISHEK

..... Petitioner

Through: Adv. Deepak Chauhan
along with petitioner.

versus

STATE OF NCT DELHI & ORS. Respondents

Through: Mr. Pradeep Gahalot, APP
for the State along with
Adv. Ramandeep Singh.
SI Kushank, PS Swaroop
Nagar.
Mr. Vijay Anand along
with R-2, R-3 & injured.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

%

09.04.2024

1. The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 ('CrPC') seeking quashing of FIR No.380/2019 dated 05.09.2019, for offences under Sections 279/337 of the Indian Penal Code, 1860 ('IPC'), registered at Police Station Swaroop Nagar. The FIR was registered on a complaint given by Sub-Inspector Harish Kumar. The chargesheet was filed for offences under Sections 279/338 of the IPC and Sections 3/181 of the Motor Vehicles Act, 1988 ('MV Act').

2. It is alleged that on 04.09.2019, the petitioner, while riding his motorcycle in rash and negligent manner, hit the minor son of Respondent Nos. 2 and 3, and thereafter, fled from the spot.

CRL.M.C. 2852/2024

Page 1 of 7



3. The present petition has been filed on the ground that the parties have amicably settled their dispute on their own free will, without any influence or pressure, and a Settlement Agreement dated 24.02.2023 has been signed by the parties to that effect.
4. The learned counsel for the petitioner submits that the injured victim sustained minor injuries in the incident and has since fully recovered.
5. He submits that the entire medical expenditure of the victim, to the tune of ₹1,00,000/-, was borne by the petitioner.
6. The victim is a minor child aged 11 years and is accompanied by Respondent Nos. 2 and 3 in person in Court. The petitioner is also present in Court. The parties have been duly identified by the Investigating Officer.
7. The petitioner tenders an unconditional apology and states that he will not drive any vehicle without a valid driving license hereon.
8. Respondent Nos. 2 and 3 state that the petitioner was not at fault while driving the motorcycle and the incident was merely an unfortunate accident. They further state that they are satisfied with the amount of compensation paid by the petitioner.
9. Respondent No. 2 & 3 and the victim, on being asked, submit that they do not wish to pursue the proceedings arising out of the present FIR and have no objection if the same is quashed.
10. Offences under Section 279 of the IPC is not compoundable whereas offence under Section 338 of the IPC is compoundable. Offences under Sections 3/181 of the MV Act are compoundable under Section 200 of the MV Act by such officers or authorities and for such amount as the State Government may,



by notification in the Official Gazette, specifies in this behalf.

11. 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. 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)

12. 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)

13. From the perusal of FIR and the documents annexed with the present petition, it appears to be a case of accident where the petitioner was driving without a valid driving license and simple injuries were suffered by the victim. Given the fact that the

CRL.M.C. 2852/2024

Page 6 of 7



dispute has been settled between the parties and the petitioner has paid all medical expenses incurred by the victim, this Court is of the opinion that no purpose would be served by keeping the dispute alive.

14. Keeping in view the aforesaid principle and the nature of dispute and the fact that the parties have amicably entered into a settlement, this Court feels that this is a fit case for exercising the discretionary jurisdiction under Section 482 of the CrPC.

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

16. In view of the above, FIR No. 380/2019 and all consequential proceedings arising therefrom are quashed in respect of offences under Sections 279/338 of the IPC, subject to payment of a total cost of ₹10,000/- by the petitioner, to be deposited with the Delhi Police Welfare Fund, within a period of eight weeks from date.

17. It is open to the petitioner to seek compounding of the offence under Sections 3/181 of the MV Act by payment of the specified fine amount to the appropriate officer or authority.

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

AMIT MAHAJAN, J

APRIL 9, 2024

“SK”