



\$~70

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

+ **CRL.M.C. 3299/2024**

LAXMAN KUMAR

..... Petitioner

Through: Mr. Shiv Kumar Gautam
& Mr. Rohit Gupta, Adv.
with petitioner in person

Versus

**STATE OF GOVT OF NCT OF DELHI
& ORS.**

..... Respondents

Through: Mr. Pradeep Gahalot, APP
for the State with Mr.
Vishwas Miglani, Adv.
SI Amit, PS- Nabi Karim
R2 & R3 in person

**CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN**

ORDER
29.04.2024

%

CRL.M.A. 12721/2024 (for exemption)

1. Exemptions allowed, subject to all just exceptions.
2. The application stands disposed of.

CRL.M.C. 3299/2024

3. The present petition is filed seeking quashing of FIR 246/2020 dated 24.08.2020, under Section 354 of the Indian Penal Code, 1860 ('IPC') and Section 8 of the Protection of Children from Sexual Offence Act, 2012 ('POCSO Act'), at Police Station Nabi Karim. The FIR was registered on a complaint made by Respondent No. 3.
4. It is averred that the parents of Respondent No. 3 used to run a food cart in front of Hanuman Temple, Qutab Road which



was seized by the police at the instance of the petitioner on 09.08.2020. It is alleged that thereafter on 23.08.2020 a quarrel took place between the petitioner and the Respondents. It is alleged that the petitioner had inappropriately touched Respondent No. 3 and slapped the Respondent No.2 / complainant.

5. The present petition has been filed on the ground that Respondent Nos. 2 and 3 were misguided, misadvised and confused under the heat of the moment.

6. The learned Counsel for the parties submits that the present petition is filed on the ground that they have amicably settled all their disputes, of their own free will, without any force, pressure, undue influence, misrepresentation, or mistake and entered into a Memorandum of Understanding dated 15.02.2024.

7. The learned counsel for the parties' state that all the terms and conditions of the Memorandum of Understanding dated 15.02.2024 have been complied with.

8. The parties are present and have been duly identified by the IO.

9. The complainants are present in person and state they does not wish to pursue any proceedings arising out of the present FIR and have no objection if the present proceedings are quashed.

10. Offences under Section 354 of the IPC and Section 8 of the POCSO are non-compoundable in nature.

11. It is well settled that the High Court while exercising its powers under Section 482 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.** reported as **(2014) 6 SCC 466**, the Supreme 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.”

12. Similarly, in **Parbatbhai Aahir & Ors v. State of Gujarat & Anr.** reported as **(2017) 9 SCC 641**, the Supreme 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.”*

13. The FIR was registered on a complaint made by Respondent No. 3 after a minor altercation took place between the parties. During the alleged incident some push and shove took place between the parties which led to the filing of the present FIR. It is stated that Respondent Nos. 2 & 3 belong to poor strata of society and were misguided to give the complaint. The object of POCSO act is to safeguard the interest of the minor children against any abuse and the same cannot be used to harass anyone on the basis of a false complaint.

14. It is true that the offences of nature as referred in the POCSO Act cannot be termed as offences *in personam* which should be quashed on the ground of settlement between the parties. The offences involve mental depravity of the accused and in true sense, are crime against the society. However, when



the victim herself/ himself comes and gives statement that the complaint was given after being misguided and on a misunderstanding, the Court while exercising power under Section 482 of the CrPC, would be unjust by allowing the proceedings to continue.

15. In the present case, it is apparent that the quarrel took place between the parties, pursuant to which, a complaint was made on exaggerated facts and stringent provisions were invoked. Once the parties have settled their disputes and have realized their mistake, continuance of the proceedings would be an abuse of the process of the Court.

16. In view of the above, FIR No. 246/2020 and all consequential proceedings arising therefrom are quashed.

17. The petition is allowed in aforesaid terms.

AMIT MAHAJAN, J

APRIL 29, 2024

“SS”