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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 3303/2024

KRISHNA MALHOTRA

..... Petitioner

Through: Mr. Sachin Kumar & Mr.
Rohan Nigam, Advocates
alongwith Petitioner-in-
Person.

versus

THE STATE NCT OF DELHI AND ANR..... Respondents

Through: Mr. Raj Kumar, APP for
the State alongwith SI
Sonu Kumar (P.S. Jagat
Puri) & SI Parvesh Kumar
(Present I.O. of the Case).

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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27.05.2024

CRL.M.A. 12739/2024 (condonation of delay)

1. For the reasons stated in the application, the same is allowed and the delay of 98 days in re-filing the present appeal is condoned.

2. The application stands disposed of.

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3. The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 ('CrPC') seeking quashing of FIR No. 212/2022 dated 16.03.2022 registered at Police Station Jagat Puri for offences under Sections 354(D)/506/509 of the Indian Penal Code, 1860 ('IPC') and for offence under Section 12 of the Protection of Children from Sexual Offences Act ('POCSO

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Act'). The present FIR was registered on a complaint made by Respondent No. 2.

4. It is averred that the parties are neighbours. It is alleged that the daughter of Respondent No. 2, who is minor, was eve teased by the petitioner. The same led to the registration of the present FIR 212/2022.

5. It is pointed out that the applicant was admitted to bail by the learned Trial Court by order dated 26.03.2022. The Court had observed that the victim and her mother, who were present in person, had expressed that they have no objection, if the accused/petitioner is released on bail.

6. The present petition has been filed on the ground that the parties have amicably settled all their disputes with the intervention of well-wishers and entered into a Memorandum of Understanding/Settlement Deed dated 12.03.2024 of their own free will, without any fear or pressure or coercion. In terms of the settlement, the parties have agreed that they will approach and appear before this Court seeking quashing of FIR 212/2022.

7. The parties are present and have been duly identified by the Investigating Officer.

8. The parties state that they live in the same neighbourhood and have settled all their disputes amicably. They submit that they have decided to maintain cordial relations with each other. They undertake to comply with the terms of the settlement.

9. The parties are bound down to the said statement.

10. On being asked, Respondent No.2 states that the present FIR was registered on a misunderstanding and she has no objection if the same is quashed.



11. Offences under Sections 506 and 509 of the IPC are compoundable whereas offences under Section 354(D) of the IPC and Section 12 of the POCSO Act are non-compoundable.

12. In ***State of Haryana v. Bhajan Lal*** : 1992 Supp (1) SCC 335, the Hon'ble Apex Court has laid down the test to discern when quashing is appropriate in exercise of the discretion under Section 482 of the CrPC. The relevant portion of the said judgment is reproduced hereunder:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do



not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) **Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”**

(emphasis supplied)

13. In **Narinder Singh & Ors. V. State of Punjab & Anr. : (2014) 6 SCC 466**, the Hon’ble 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.

29.6. Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. **It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delicate parts of the body, nature of weapons used, etc.** Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. **At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.**

29.7. While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. **Those cases where the settlement is arrived at**



immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come to a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.”

(emphasis supplied)

14. In the present case, Respondent No.2 states that she does not want to proceed with the complaint and she has also stated that FIR in the present case was registered as an outcome of dispute between the parties. She further stated that the FIR was an outcome of misunderstanding. The parties are neighbours and have decided to live peacefully in future. In the peculiar



circumstances of this case, it is unlikely that the present FIR will result in a conviction when Respondent No.2 does not wish to pursue the case arising out of the present FIR and continuation of the proceedings would only cause ill will to fester between the parties and undue harassment to the complainant.

15. Keeping in mind the facts of the case, I am of the considered opinion that it is a fit case to exercise discretionary jurisdiction under Section 482 of the CrPC.

16. In view of the above, FIR No. 212/2022 and all consequential proceedings arising therefrom are quashed.

17. The present petition is allowed in aforesaid terms.

AMIT MAHAJAN, J

MAY 27, 2024

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