



\$~139 & 1

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

139

+ CRL.M.C. 3311/2024

DEEPAK ROHILLA & ANR.

..... Petitioners

Through: Mr. Yogesh Kumar, Mr. Jainendra and Ms. Priyanka Singh, Advocates along with Petitioners in person.

versus

STATE GNCT OF DELHI AND ANR.

..... Respondents

Through: Mr. Yudhvir Singh Chauhan, APP for State with SI Gajender Singh and ASI Jarande Umesh, PS: Model Town.

Mr. Tariq Kamal, Mr. Rahul Nagpal, Mr. Ajitabh Ranjan, Ms. Richa, Mr. Rahul Sharma and Mr. Prabhash Kumar, Advocates for R-2 along with R-2 in person.

1

+ CRL.M.C. 3323/2024

MOHIT YADAV & ORS.

..... Petitioners

Through: Mr. Tariq Kamal, Mr. Rahul Nagpal, Mr. Ajitabh Ranjan, Ms. Richa, Mr. Rahul Sharma and Mr. Prabhash Kumar, Advocates for Petitioners along with Petitioners in person.

versus

STATE GNCT OF DELHI AND ANR.

..... Respondents

Through: Mr. Yudhvir Singh Chauhan, APP for State with SI Gajender Singh and ASI Jarande Umesh, PS: Model Town.

Mr. Yogesh Kumar, Mr. Jainendra and Ms. Priyanka Singh, Advocates for R-2 along with R-2 in person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

06.05.2024

%



CRL.M.A. 12763/2024 (exemption) in CRL.M.C. 3311/2024
CRL.M.A. 12805/2024 (exemption) in CRL.M.C. 3323/2024

1. Allowed, subject to all just exceptions.
2. Applications stand disposed of.

CRL.M.C. 3311/2024 & CRL.M.A. 12762/2024 (stay)
CRL.M.C. 3323/2024 & CRL.M.A. 12804/2024 (stay)

3. CRL.M.C. 3311/2024 is filed on behalf of the Petitioners under Section 482 Cr.P.C. seeking quashing of FIR No. 549/2016 dated 04.10.2016 under Sections 308/34 IPC registered at PS: Model Town including proceedings emanating therefrom.
4. CRL.M.C. 3323/2024 is filed on behalf of the Petitioners under Section 482 Cr.P.C. seeking quashing of FIR No. 547/2016 dated 04.10.2016 under Sections 308/34 IPC registered at PS: Model Town including proceedings emanating therefrom.
5. As per the case of the prosecution, in FIR No.549/2016, on 03.10.2016 at around 09:50 p.m., when Respondent No.2 in CRL.M.C. 3311/2024 was returning home on his motorcycle from Sangam Park after supplying milk, he reached the street in front of the house of the Petitioner No.1, who was standing there. When the milk gallon hanging on Respondent No.2's bike touched Petitioner No.1, an altercation took place. Subsequently, Respondent No.2 was slapped by the Petitioners and attacked on his head by an unknown object. On the complaint of Respondent No.2, FIR No.549/2016 was registered.
6. In CRL.M.C. 3323/2024, on 03.10.2016 at around 09:30 p.m., when Respondent No.2 was going for Vijay Nagar Jagran and on the way Petitioner No.1 in the present case stopped him and started having a heated



argument with him, which led to an altercation. Consequently, Petitioners beat up Respondent No.2 with sticks and bricks and left Respondent No.2 unconscious. On his complaint, FIR No. 547/2016 was registered.

7. It is stated in the petitions that during the pendency of the criminal proceedings, parties have amicably resolved their disputes and differences with the intervention of well-wishers and relatives and a Memorandum of Understanding has been executed on 05.04.2024, copy of which has been filed with the present petitions.

8. Issue notice.

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

10. Learned counsels as above, accept notice on behalf of Respondent No.2 in both the petitions respectively.

11. Complainants and accused in both the petitions have joined court proceedings and have been identified by Investigating Officers SI Gajender Singh and ASI Jarande Umesh, PS: Model Town. Complainants state that they do not object to the quashing of the respective FIRs, as the parties have resolved their disputes and want to put a quietus to the matter. Learned APP submits that while the State has no objection to the quashing of the FIR since the injury has been opined to be simple, however, the FIR dates back to 2016 and since Police and State machinery has been used, Petitioners be put to some terms.

12. 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.

xxx

xxx

xxx

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.

xxx

xxx

xxx

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.”

13. Supreme Court in ***Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and Others v. State of Gujarat and Another, (2017) 9 SCC 641***, has reiterated the parameters for exercising inherent jurisdiction under Section 482 Cr.P.C. for quashing of FIR/criminal complaint and relevant passages are as follows:-

“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.”

14. Parties have amicably settled the matter. Since complainants do not wish to prosecute the complaints, it would be a futile exercise as well as an



unnecessary burden on the State machinery, if the criminal proceedings continue as the chances of conviction are bleak. It would be in the interest of justice to quash the FIRs so that peace and harmony continues between the parties. This Court is further fortified in its view by the decisions of this Court in *Raghubar Dayal & Ors. v. State of NCT of Delhi & Ors.*, CRL.M.C. 6890/2022, decided on 19.12.2022 and *Sameer Khan & Ors. v. State (NCT of Delhi) & Ors.*, CRL.M.C. 3300/2021, decided on 16.12.2021, wherein Courts have quashed FIRs under same provisions, predicated on settlements between the parties, in the interest of justice.

15. Accordingly, FIR No. 549/2016 dated 04.10.2016 under Sections 308/34 IPC registered at PS: Model Town and FIR No. 547/2016 dated 04.10.2016 under Sections 308/34 IPC registered at PS: Model Town are quashed including proceedings emanating therefrom, subject to payment of costs of Rs.10,000/- by each Petitioner, in favour of DHCBA Lawyers Social Security & Welfare Fund, Account No.15530100009730, UCO Bank, Delhi High Court Branch, New Delhi, 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, petitions will be listed before Court by the Registry.

16. Petitions stand allowed and disposed of in the aforesaid terms.

JYOTI SINGH, J

MAY 6, 2024/kks