



\$~83

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

+ **CRL.M.C. 3417/2024**

MANOJ NAGPAL AND ANR.

..... Petitioners

Through: Mr. Kuljeet Rawal and Mr. Aditya Joshi, Advocates with Petitioners in person.

versus

**THE STATE GOVT. OF NCT OF DELHI
AND ANR.**

..... Respondents

Through: Mr. Digam Singh Dagar, APP for State with SI Amandeep, PS: Aman Vihar.
Mr. Manish Singh and Mr. Himanshu, Advocates for R-2 with Respondent No. 2 in person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

02.05.2024

%

CRL.M.A. 13140/2024 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CRL.M.C. 3417/2024

3. This petition has been filed on behalf of the Petitioners under Section 482 Cr.P.C. seeking quashing of FIR No. 302/2022 dated 12.03.2022 under Sections 354/354(B)/451/506/509/34 IPC registered at PS: Aman Vihar including proceedings emanating therefrom.
4. As per the case of the prosecution, present FIR was registered on a complaint received from Respondent No.2 herein alleging that on 11.03.2022 her neighbours Manoj and Ajeet entered her house when her husband was not home and slapped her and her daughters and tried to touch



in an appropriate manner. They also passed inappropriate comments on both and threatened them. They had on previous occasions also committed such acts but had apologised and therefore, no complaint was lodged by the Complainant. It was also alleged that both Manoj and Ajeet had also attempted to tear the Complainant's clothes and threatened that nobody can save them from the accused persons. During the course of inquiry, Complainant was taken for medical examination to SGM Hospital. MLC reflected history of physical assault as narrated by the Complainant and the nature of injury was a bruise on the upper part of the body.

5. It is stated in the petition that parties Petitioners and Respondent No.2 amicably resolved their disputes with the intervention of family members and friends. Compromise agreement had been executed on 13.02.2024 wherein Respondent No.2 has agreed to support the petition for quashing of the FIR and it is recorded that the settlement had been entered into without any pressure, duress or coercion. Copy of the agreement has been placed on record.

6. Issue notice.

7. Mr. Dagar, learned APP accepts notice on behalf of the State and Mr. Manish Singh, Advocate accepts notice on behalf of Respondent No.2.

8. Petitioners and Respondent No.2 are present in Court and are identified by the Investigating Officer SI Amandeep, PS: Aman Vihar. Respondent No.2 states that the matter has been amicably resolved and it would not be in the interest of both the parties if the criminal proceedings continue against the Petitioners and in this backdrop, she gives her no objection to the quashing of the FIR. Learned APP also does not object to the FIR being quashed since parties are neighbours and have resolved their



differences.

9. 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.”

10. In a later judgment in the case of **Ramgopal and Another v. State of Madhya Pradesh, 2021 SCC OnLine SC 834**, the Supreme Court held as follows:

“11. True it is that offences which are ‘non-compoundable’ cannot be compounded by a criminal court in purported exercise of its powers under Section 320 Cr.P.C. Any such attempt by the court would amount to alteration, addition and modification of Section 320 Cr.P.C, which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320 Cr.P.C., which may justify its wider interpretation and include such offences in the docket of ‘compoundable’ offences which have been consciously kept out as non-compoundable. Nevertheless, the limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 Cr.P.C. The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482 Cr.P.C. in aid to prevent abuse of the process of any Court and/or to secure the ends of



justice.

12. *The High Court, therefore, having regard to the nature of the offence and the fact that parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under Section 482 Cr.P.C., even if the offences are non-compoundable. The High Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyze the very object of the administration of criminal justice system.*

13. *It appears to us that criminal proceedings involving non-heinous offences or where the offences are pre-dominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post-conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extra-ordinary power under Section 482 Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482 Cr.P.C. may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in Narinder Singh v. State of Punjab, (2014) 6 SCC 466 and Laxmi Narayan (Supra).*

14. *In other words, grave or serious offences or offences which involve moral turpitude or have a harmful effect on the social and moral fabric of the society or involve matters concerning public policy, cannot be construed betwixt two individuals or groups only, for such offences have the potential to impact the society at large. Effacing abominable offences through quashing process would not only send a wrong signal to the community but may also accord an undue benefit to unscrupulous habitual or professional offenders, who can secure a 'settlement' through duress, threats, social boycotts, bribes or other dubious means. It is well said that "let no guilty man escape, if it can be avoided."*

11. In ***State of Madhya Pradesh v. Laxmi Narayan and Others***, (2019) 5



SCC 688, the Supreme Court has observed that Section 320 Cr.P.C. would not be an impediment in quashing non-compoundable offences in exercise of inherent powers under Section 482 Cr.P.C. where the facts and circumstances of the case call upon the court to do so in the interest of justice. It has been held in various judgments that power of compounding and quashing of criminal proceedings in exercise of inherent powers are not equal or interchangeable in law. In ***Shiji alias Pappu and Others v. Radhika and Another, (2011) 10 SCC 705***, considering the exercise of inherent powers by the High Court under Section 482 Cr.P.C. in the context of non-compoundable offence observed that merely because an offence is not compoundable under Section 320 Cr.P.C. is no reason by itself for the High Court to refuse the exercise of its inherent power for quashing an FIR. There is no doubt on the legal proposition that the inherent powers have to be sparingly exercised with great caution and only where the Court comes to a conclusion that there would be manifest injustice or abuse of the process of the Court if the power is not exercised that the Court would quash the proceedings.

12. Parties have mutually settled all their disputes and differences. In view of settlement between the parties and the categorical stand of Respondent No.2 that she does not wish to pursue the complaint, no useful purpose will be achieved in continuing the criminal proceedings emanating from the present FIR, as the chances of conviction are bleak and it would be in the interest of justice that the proceedings are terminated.

13. Accordingly, FIR No. 302/2022 dated 12.03.2022 under Sections 354/354(B)/451/506/509/34 IPC registered at PS: Aman Vihar is quashed including all proceedings emanating therefrom, subject to Petitioners



depositing a sum of Rs. 10,000/- in favour of DHCBA Lawyers Social Security & Welfare Fund (UCO Bank Account No. 15530100009730, Delhi High Court Branch), 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, petition will be listed before Court by the Registry.

14. Petition is allowed and disposed of.

JYOTI SINGH, J

MAY 02, 2024/shivam