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

+ **CRL.M.C. 3422/2024**

**GAURAV KUMAR**

..... Petitioner

Through: Mohd. Ataher Khan, Advocate with  
Petitioner in person.

versus

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

..... Respondents

Through: Mr. Digam Singh Dagar, APP for  
State with SI Ashish, PS: Shaheen Bagh and Insp.  
Pawan Kumar, PS: Neb Sarai.

Respondents No. 2, 3 and 6 in person.

**CORAM:**

**HON'BLE MS. JUSTICE JYOTI SINGH**

**ORDER**

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**02.05.2024**

**CRL.M.A. 13151-152/2024 (Exemptions)**

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

**CRL.M.C. 3422/2024 & CRL.M.A. 13150/2024 (stay)**

3. This petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.326/2021 dated 28.09.2021 under Sections 279/337/304A IPC registered at PS: Shaheen Bagh, including proceedings emanating therefrom, predicated on a mutual settlement between the parties.
4. As per the case of the Prosecution, FIR was registered on 28.09.2021 on a complaint made by Rahul Kumar, cousin brother of deceased Dinesh Kumar. The genesis of the complaint was an accident which occurred when the deceased and the complainant were going on a motorcycle No. UP13AN8760 to take food. When they reached Kalindi Road, a vehicle Tata 909 (DL1M6264) ran over the deceased resulting in fatal injuries to him.



complainant sustained minor injuries on his left leg. Dinesh Kumar was taken to a nearby hospital by E-Rickshaw, where he was declared brought dead and complainant was treated for his injuries. After conclusion of investigation, chargesheet has been filed before the Trial Court.

5. It is stated in the petition that during the pendency of the proceedings, on 15.11.2022 complainant and the legal heirs of deceased Dinesh Kumar have amicably settled the matter with the Petitioner for a sum of Rs.4 Lakhs. It was agreed that out of the settlement amount, a sum of Rs.3 Lakhs shall be paid to Gyanwati, wife of the deceased and Rs. 1 Lakh will be paid to Rajwati, mother of the deceased. Settlement agreement to this effect has been executed between the parties on 06.02.2023, copy of which has been filed along with the petition.

6. Issue notice.

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

8. Respondents No.2, 3 and 6 are present and accept notice.

9. Petitioner and the complainant as well as legal heirs of the deceased are present in Court and are identified by the Investigating Officer SI Ashish, PS: Shaheen Bagh. Legal heirs of the deceased acknowledge receipt of the settlement amount and submit that they do not wish to pursue the matter and have no objection to the quashing of the FIR. Learned APP for the State submits that since this FIR was registered in the year 2021, if the Court is inclined to quash the FIR, Petitioner should be put to some terms for having used the State machinery.

10. Parties have been heard. Indisputably, the matter has been amicably settled and terms of settlement are incorporated in a written MoU executed between the Petitioner and complainant, mother and wife of the deceased.



Settlement terms have been complied with inasmuch as the entire settlement amount in the agreed proportion had been paid to the widow and the mother of deceased Dinesh Kumar and they are categorical in their submission that they do not wish to pursue the proceedings.

11. At this stage, it would be apposite to refer to the judgment of the Supreme Court in ***Gian Singh v. State of Punjab and Another, (2012) 10 SCC 303***, the relevant paragraphs of which are as under:-

*“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.*

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*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.*

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**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.”*

12. In **Ajay Agarwal & Ors. v. State of NCT of Delhi and Anr.**, decided on 16.05.2023, in **CRL.M.C. No. 2899/2018**, this Court relying on the judgments of the Supreme Court and assessing the relevant facts of the case was of the view that High Court is not prohibited *per se* in entertaining petitions for quashing of FIRs involving an offence under Section 304A IPC, predicated on settlements between the parties and this could be done for various reasons such as: *prima facie* there is no criminal negligence or *mens rea*; considering the socio-economic condition of the family of the deceased, it would be preferable to provide adequate compensation rather than await the conclusion of trial or where the family accepts adequate compensation and decides not to pursue the complaint, in which case it would be an exercise in futility to continue the criminal proceedings. Co-ordinate Benches of this Court have quashed FIRs under Section 304A IPC, basis the settlement between the parties. In **Upendra Kumar v. State & Ors.**, **CRL. M.C. 1630/2018**, decided on 16.05.2023, this Court observed that since the matter had been settled between the parties for Rs.5,00,000/- and the legal heirs of the deceased had accepted the payment as adequate compensation, no purpose would be served in continuing the proceedings as



the chances of conviction were remote. In this context, I may also refer to an order of this Court in *Shivam Chauhan & Anr v. The State (Govt. of NCT of Delhi) & Ors., CRL.M.C. 2759/2018*, decided on 04.09.2018. On assessment of the facts and circumstances of this case, I am of the view that it would be in the interest of justice to put a quietus to the matter, considering that the legal heirs of the deceased Dinesh Kumar have amicably settled the matter with the Petitioner and have received the compensation/settlement amount. While there can be no dispute that a loss of life of a family member can never be compensated in monetary terms and any amount of compensation cannot bring back the 33 years old son of Respondent No. 6, who was her only hope for future and earning hand, however, the compensation amount paid to the legal heirs of the deceased may help tide over their immediate penury, on account of loss of an earning member. In these circumstances, no purpose will be achieved in keeping the criminal proceedings pending as the chances of conviction are remote and bleak.

13. Therefore, FIR No.326/2021 dated 28.09.2021 under Sections 279/337/304A IPC registered at PS: Shaheen Bagh is hereby quashed including the charge sheet and proceedings emanating therefrom.

14. Petition stands disposed of along with pending application in the aforesaid terms.

**JYOTI SINGH, J**

**MAY 02, 2024/shivam**