



\$~69 and 86

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

+ W.P.(CRL) 1351/2024 and CRL.M.A. 13275/2024

FAZLUR RAHAMAN & ORS.

..... Petitioners

Through: Mr. Mohd. Shamikh and Mr. Absar Ahmad, Advocates with Petitioners in person.

versus

STATE OF DELHI AND ORS.

..... Respondents

Through: Mr. Sanjay Lao, Standing Counsel (Crl.) and Mr. Shivesh Kaushik and Mr. Abhinav Arya, Advocates with SI Anugraha, PS: Welcome, for State.

Respondents No.2 to 4 in person.

+ W.P.(CRL) 1331/2024 and CRL.M.A. 13132-13133/2024

SAHIL & ORS.

..... Petitioners

Through: Mr. Mohd. Shamikh and Mr. Absar Ahmad, Advocates with Petitioners in person.

versus

STATE OF NCT OF DELHI AND ORS.

..... Respondents

Through: Mr. Sanjay Lao, Standing Counsel (Crl.) and Mr. Shivesh Kaushik and Mr. Abhinav Arya, Advocates with SI Anugraha, PS: Welcome, for State.

Respondents No.2 and 3 in person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

%

02.05.2024

1. W.P.(CRL) 1351/2024 has been filed under Article 226 of the Constitution of India read with Section 482 Cr.P.C. for quashing of FIR



No.450/2022 dated 11.07.2022 registered under Section 308/34 IPC at PS: Welcome. Chargesheet has not been filed till date.

2. W.P.(CRL) 1331/2024 has been filed under Article 226 of the Constitution of India read with Section 482 Cr.P.C. for quashing of FIR No.294/2023 dated 11.04.2023 registered under Section 323/341/506/34 IPC at PS: Welcome. Chargesheet has been filed in the case.

3. These are cross-FIRs which relate to the same alleged incident on 10.07.2022 between the accused persons and the complainants on a terrace when some of them had gathered to celebrate *Eid*. As per the allegations, at around 6:00 PM, when the complainant in W.P.(CRL.) 1351/2024 was eating food, both Fazlur and Sabbu started abusing from their own rooftop. After sometime, both came to the terrace on which the complainant was sitting with sticks in their hands and both sides started abusing each other and hitting with sticks. Complaints were lodged culminating in the present FIRs. However, during the pendency of the criminal proceedings, parties have arrived at amicable settlement of their disputes as they are close neighbours and do not wish to continue the acrimony. Compromise Deed executed on 18.05.2023 and notarized on 26.05.2023 has been placed on record, wherein it is agreed that they shall maintain peace and harmony in future and support in quashing the respective FIRs.

4. Issue notice.

5. Learned Standing Counsel accepts notice on behalf of the State.

6. Respondents in both the petitions are present and are identified by the Investigating Officer SI Anugraha, PS: Welcome. Complainants state that *inter se* disputes have been amicably settled and they have no objection to the quashing of the respective FIRs as being neighbours they wish to live in



peace and harmony with each other. Learned Standing Counsel also has no objection to the quashing of the aforesaid FIRs in view of amicable settlement between the parties.

7. 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 predominately 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."

8. Parties have mutually settled all their disputes. In view of the settlement between the parties and the categorical stand of complainants that they do not want to pursue the complaints against each other, no useful purpose will be achieved in continuing the criminal proceedings emanating from the subject FIRs as the chances of conviction are bleak and it would be in the interest of justice that the proceedings are terminated. This Court is fortified in its view by the judgments of this Court in **Rohit Bhola and Others v. The State (NCT of Delhi) and Ors., CRL.M.C.1028/2022**,



decided on 05.05.2022 and *Satyapal Sharma & Ors. v. The State (NCT of Delhi) & Ors., CRL.M.C. 864/2022*, decided on 05.05.2022, wherein the Courts have quashed FIRs under same provisions, predicated on settlements between the parties, in the interest of justice.

9. Accordingly, FIR No.450/2022 dated 11.07.2022 registered under Section 308/34 IPC at PS: Welcome; and FIR No.294/2023 dated 11.04.2023 registered under Section 323/341/506/34 IPC at PS: Welcome along with Charge Sheet are quashed including proceedings emanating therefrom.

10. Petitions stand allowed and disposed of. Pending applications also stand disposed of.

JYOTI SINGH, J

MAY 2, 2024
B.S. Rohella