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

+ **CRL.M.C. 3000/2022 & CRL.M.A. 12628/2022**

KRISHAN CHANDRA ARYAPetitioner
Through: Mr. Nishant Awana and
Ms. Nitya Sharma, Advs.
with Mr. Shubham
Sharma, Dy. Manager with
the petitioner in person.

versus

THE STATE NCT OF DELHI
AND ORS.Respondents
Through: Mr. Manoj Pant, APP for
the State.
Mr. Ashok Kumar Panwar,
Adv. with R-2 and 3 in
person.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **05.12.2024**

1. The present petition is filed seeking quashing of Criminal Complaint No. 327 of 2021, pending before the learned Metropolitan Magistrate, South-West District, Dwarka Courts, New Delhi along with all proceedings emanating therefrom.
2. The complaint was filed by Respondent Nos.2 and 3/complainants under Section 156(3) of the Code of Criminal Procedure, 1973 ('CrPC') read with Section 200 of the CrPC seeking prosecution of the accused persons under Sections 323/452/354/354B/506/509/34 of the Indian Penal Code, 1860 ('IPC').
3. It is averred that an altercation took place between the

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accused persons and the complainants over the installation of a Jio tower adjacent to the house of the complainants. It is alleged that the accused persons gave beatings to the complainants and also misbehaved with them. When no action was taken by the police, the complainants filed the subject complaint.

4. The learned counsel for the petitioner submits that the scuffle took place between the complainants and Accused Nos. 1 to 6 who are neighbours.

5. She submits that the present petitioner (Accused no. 7) only happened to be present at the time of incident and was an employee of the company which maintains the telephone tower, which was installed adjacent to the house of the complainants.

6. She submits that the parties have settled their disputes with the intervention of Delhi High Court Mediation & Conciliation Centre and Settlement Agreement dated 27.11.2024 has been signed by the parties to this effect.

7. The parties are present in person before this Court and have been identified by their respective counsels.

8. The complainants are present in person and state that the complaint against the petitioner was filed on a misunderstanding. They submit that they have since realised their mistake and also withdrawn the complaint against the petitioner.

9. The learned counsel for the complainants submits that the settlement has only been arrived in respect of the petitioner and the same shall have no bearing on the merits of the case against the other accused persons.

10. Offences under Sections 452/354/354B of the IPC are non-compoundable whereas offences under Sections 323/506/509 are compoundable.



11. It is well settled that the High Court while exercising its powers under Section 482 of the CrPC can quash offences which are non-compoundable on the ground that there is a compromise between the accused and the complainant. The Hon'ble Apex Court has laid down parameters and guidelines for High Court while accepting settlement and quashing the proceedings. The Hon'ble Apex Court in the case of **Gian Singh v. State of Punjab : (2012) 10 SCC 303** had held as under:

*“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.”

(emphasis supplied)

12. Similarly, in the case of **Parbatbhai Aahir & Ors. v. State of Gujarat & Anr. : (2017) 9 SCC 641**, the Hon’ble Supreme Court had observed as under :-

“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.”

(emphasis supplied)



13. It is stated that the complaint against the petitioner was given on a misunderstanding and the altercation actually took place between the complainants and other accused persons, who are neighbours. It is stated that the petitioner was merely present at the spot of altercation. In such circumstances, continuance of the proceedings against the petitioner would only cause harassment and heart burn amongst the parties.

14. Keeping in view the nature of dispute and that the parties have amicably entered into a settlement, this Court feels that continuance of the proceedings against the petitioner would amount to abuse of the process of Court. I am of the opinion that this is a fit case to exercise discretionary jurisdiction under Section 482 of the CrPC.

15. Considering the above, the Criminal Complaint No. 327 of 2021 and consequential proceedings arising therefrom are quashed *qua* the petitioner. Consequently, the petitioner's name is directed to be dropped from the array of parties in Criminal Complaint No. 327 of 2021.

16. The present petition is allowed in the aforesaid terms. Pending application(s) also stand disposed of.

17. Needless to say, this Court has not gone into the merits of the matter *qua* the other accused persons and the present order should have no bearing on the proceedings in relation to them.

AMIT MAHAJAN, J

DECEMBER 5, 2024

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