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

+ **W.P.(CRL) 1422/2024**

GOPAL BANSAL

..... Petitioner

Through: Mr. Sumeet Verma with Mrs. Charu Verma, Mr. Amit Kala and Mr. Mahinder Pratap Singh, Advocates along with Petitioner in person.

versus

STATE (NCT OF DELHI) & ANR.

..... Respondents

Through: Ms. Rupali Bandhopadhyay, ASC for State with Mr. Abhijeet Singh and Mr. Sagar Mehlawat, Advocates along with SI Vipin Kumar, PS: Prashant Vihar.
Respondent No.2 in person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

06.05.2024

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1. This petition has been filed on behalf of the Petitioner under Article 226 of the Constitution of India read with Section 482 Cr.P.C. seeking quashing of FIR No.153/2024 dated 06.04.2024 under Section 420 IPC registered at PS: Prashant Vihar along with proceedings emanating therefrom.
2. Petitioner herein is the Director and Promoter of IFL Housing Finance Ltd. (hereinafter referred to as 'IFL'), a company engaged in the business of providing housing finance to its customers. Respondent No.2 runs a proprietorship firm M/s Badshah Interiors and is engaged in the business of interior decoration and sale and purchase of pre-owned cars on commission



basis. Respondent No.2 came in touch with the Petitioner about two years ago in relation to his business of sale and purchase of cars. In the last week of March, 2023, Respondent No.2 met the Petitioner and borrowed loan in the sum of Rs.1.5 crores against security of his Flat No. 25B, Khukhrain Apartments, Sector 13, Rohini, Delhi.

3. It is stated in the petition that the loan amount of Rs.1.5 crores was disbursed in two instalments i.e. Rs.50 lakhs into the savings account of Respondent No.2 on 06.04.2023 and Rs. 1 crore into the current account of M/s Badshah Interiors on 07.04.2023. After disbursement of four monthly instalments, there was some misunderstanding between the Petitioner and Respondent No.2 resulting in filing of cross police complaints *inter alia* for commission of offence of cheating by both the parties against each other. However, Police did not register any FIR on the ground that it was a civil dispute between the parties.

4. It is stated that when payment of EMIs was stopped by Respondent No.2, Petitioner sent a Demand Notice dated 02.01.2024 under Section 13(2) of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('SARFAESI Act'). Respondent No.2 refuted the claim of the Petitioner in his response to the notice. On non-payment, despite the Demand Notice, Petitioner sent a notice dated 12.03.2024 under Section 13(4) of SARFAESI Act for taking possession of the secured asset i.e. the aforementioned property. By an order dated 27.03.2024 in CC No.469/2024, learned Chief Metropolitan Magistrate (North District), Rohini Courts, allowed the application under Section 14 of SARFAESI Act filed by IFL against Respondent No.2 and a Receiver was appointed to take possession of the asset.



5. It is further stated that application under Section 156(3) Cr.P.C. was filed by Respondent No.2 in February, 2024, which was allowed vide order dated 01.04.2024 by the learned Metropolitan Magistrate, pursuant to which present FIR was registered. It is averred that on 16.04.2024, the Court appointed Receiver took possession of the secured property and handed over the same to the secured creditor i.e. IFL.

6. It is further averred that during the pendency of the litigations, Petitioner and Respondent No.2 have amicably resolved their disputes and a Settlement Deed has been executed on 30.04.2024. As per the terms of the agreement, it is agreed that:-

- (a) Respondent No.2 along with his wife Ujala Akram shall execute and register the sale deed of the property in favour of IFL towards discharge of their liability of outstanding balance of loan, immediately upon quashing of this FIR;
- (b) After registration of the sale deed, loan liability of Respondent No.2 will be zero. Petitioner and Respondent No.2 will withdraw all their cases, civil and criminal, filed against each other or third parties pending in various Courts, Tribunals, etc.;
- (c) Petitioner through his company IFL shall execute a Rent Agreement in favour of the wife of Respondent No.2 for a lock-in period of 3 years with rent of Rs.50,000/- per month for first 2 years and Rs.55,000/- per month in the third year, to be paid by Respondent No.2/Ujala Akram to IFL;
- (d) Respondent No.2 shall support the quashing of the present FIR by filing a joint petition with the Petitioner in the appropriate Court;



- (e) On the date of quashing of FIR, Petitioner shall ensure the execution of the rent agreement on behalf of IFL and hand over the peaceful vacant possession and key of the property to Respondent No.2/Ujala Akram;
- (f) During the lease period of 3 years, Respondent No.2, Ujala Akram or any person on their behalf will be at liberty to purchase the property for a consideration of Rs.1.5 crores, however, if they are unable to purchase the flat within 3 years, they will hand over the possession to IFL on expiry of 3 years lease period;
- (g) At the time of execution of the sale deed, Petitioner shall hand over all loan documents of the property to Respondent No.2 and all other documents signed/executed and blank signed cheques given earlier. Title documents of the property shall remain with IFL as owner of the property.
7. Issue notice.
8. Learned ASC accepts notice on behalf of the State.
9. Respondent No.2, who is present in Court, accepts notice.
10. Petitioner/Mr. Gopal Bansal, Promoter and Director of IFL and Respondent No.2, namely, Mr. Akram Yamin are present in Court and are identified by Investigating Officer SI Vipin Kumar, PS: Prashant Vihar. Petitioner has, on behalf of his company IFL, settled all the disputes with Respondent No.2 and a detailed Settlement Deed has been executed, incorporating the terms of settlement with respect to each party's obligations and rights. Copy of the Settlement Deed has been placed on record. It is stated by Respondent No.2 that since the matter has been settled, he has no objection to the quashing of the FIR to put a quietus to the litigation. In view



of the settlement, learned ASC for the State also has no objection to the quashing of present FIR.

11. 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 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 a later judgment in the case of ***Narinder Singh and Others v. State of Punjab and Another***, (2014) 6 SCC 466, the Supreme Court reiterated the proposition and relevant paragraphs are as follows:-

“29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:



(i) ends of justice, or

(ii) to prevent abuse of the process of any court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.”

13. Parties have mutually settled all their disputes. Respondent No. 2 has made a categorical statement that he does not wish to pursue the complaint. In these facts and circumstances, the chances of conviction are remote and it would be in the interest of justice to terminate the criminal proceedings so that a quietus is put to the long-drawn multiple litigations between the parties. This Court is fortified in its view by the decision of the Co-ordinate Bench of this Court in ***Sankalp Zibbu & Anr. v. State of NCT of Delhi & Anr., W.P.(CRL.) 1909/2021***, decided on 11.01.2022, wherein FIR under the same provision has been quashed by the Court, based on mutual settlement between the parties.

14. Accordingly, FIR No.153/2024 dated 06.04.2024 under Section 420 IPC registered at PS: Prashant Vihar is hereby quashed along with proceedings emanating therefrom. Settlement Deed will form a part of this



order and needless to state, terms of the settlement shall bind the parties thereto.

15. Petition stands allowed and disposed of.

MAY 6, 2024/kks

JYOTI SINGH, J