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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 09.05.2024

+ CRL.M.C. 3639/2024

PANKAJ MAKHIJA

..... Petitioner

Through: Mr. Karan Kumar, Ms. Lokesh
Baimad and Ms. Jyoti Baimad, Advs.

versus

THE STATE (GOVT. OF NCT OF DELHI) & ORS.

..... Respondents

Through: Ms. Kiran Bairwa, APP for State with
SI Shamsheer Singh, Paschim Vihar,
East.

Mr. Yash Arya, Adv. for R-2 & 3 with
R-2 & 3 in person.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

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J U D G M E N T

ANOOP KUMAR MENDIRATTA, J (ORAL)

1. Petition under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioner for quashing of FIR No. 0688/2020, under Sections 307/324 IPC, registered at P.S.: Paschim Vihar East and proceedings emanating therefrom.

2. In brief, as per the case of prosecution, on 24.11.2020, complainant/respondent No.3 Rajan Kumar @ Raju visited the premises of petitioner alongwith his brother Ravinder (respondent No.2) for purpose of return of loan, which was taken by Laxman (father of petitioner), wherein there was an altercation and the petitioner attacked respondent No. 3 with a



‘*chapad*’ resulting in injuries. FIR was accordingly registered under Sections 307/324 IPC.

3. It may further be noticed that a cross FIR No. 0689/2020 under Section 323/324/34 IPC was also registered on complaint of the petitioner (Pankaj Makhija) against respondent No. 2 & 3 (Ravinder Kumar and Raju Kumar). The version given by the petitioner in the aforesaid FIR is that an altercation occurred over return of money, wherein he was attacked by Raju (respondent No.3) with a sharp edged object, while Ravinder hit him with an iron stool on his head, resulting in injuries.

4. Learned counsel for the petitioner submits that petitioner was in no manner involved in the aforesaid loan transaction and was merely sitting on shop at relevant time when unfortunate incident happened. It is also pointed out that the alleged object used in the incident (*chapad*), was never recovered during the course of investigation and Section 307 IPC has been wrongly invoked though the nature of injuries sustained by respondent Nos. 2 & 3 was opined to be simple and were discharged on the same day alongwith the petitioner. The genesis of the incident is stated to be on account of initial assault by respondent Nos. 2 and 3. The disputes are stated to have been amicably settled between the parties in terms of Settlement Deed dated 22.08.2023. It is pointed out that petitioner has voluntarily cooperated in proceedings preferred by Respondent No. 2 & 3 for quashing of FIR No. 0689/2020, registered against them under Section 323/324/34 IPC, at P.S.: Paschim Vihar East and the said FIR has been quashed by this Court vide judgment dated 07.05.2024 in CRL.M.C. 3627/2024. Reliance is further placed upon ‘*The State of Madhya Pradesh vs. Laxmi Narayan & Ors.*’, Crl. Appeal No. 349-350 of 2019, decided by Hon’ble Apex Court on



05.03.2019 and '*Mukhtiyaar Ali vs. The State NCT of Delhi & Ors.*', CrI.M.C. No. 2021/2021, decided by Delhi High Court on 20.09.2021.

5. Learned APP for the State submits that the chargesheet has since been filed and appropriate view may be taken since the same has been filed under Section 307/324 IPC and counter versions in cross cases have been brought on record.

6. Petitioners seek to invoke the powers under Section 482 of Code of Criminal Procedure. The same is to be used to secure the ends of justice or to prevent the abuse of process of the Court. In which cases, the power to quash the criminal proceedings or the complaint or FIR may be used when the offender as well as victim have settled their dispute, would depend upon the facts and circumstances of each case and no generalized list or categories can be prescribed. However, the Court is required to give due regard to the nature and gravity of the offence and consider the impact on the society.

7. It may also be observed that heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot be appropriately quashed despite settlement. However, distinguished from serious offences, the offences which have predominant element of civil dispute or offences involving minor incidents, where the complainant/victim also stands compensated for loss, if any, stand on a different footing, so far as exercise of inherent powers under Section 482 Cr.P.C. is concerned. The High Court also is not foreclosed from examining as to whether there exists material for incorporation of such an offence or as to whether there is sufficient evidence which if proved would lead to proving the charge for the offence charged with. It may also be assessed, if in view of compromise between the parties, the possibility of conviction in such a case is remote and



whether continuation of proceedings would cause grave oppression and prejudice the accused.

8. Principles for quashing of FIR have been also delineated in *Gian Singh vs. State of Punjab & Anr.*, (2012) 10 SCC 303 and *Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur & Ors. vs. State of Gujarat & Anr.*, (2017) 9 SCC 641. Predicated on settlement between the parties, FIRs under Section 308/34 IPC have been quashed in '*Laxman Karotia & Ors. vs. The State NCT of Delhi & Ors.*', CRL.M.C. 813/2024 decided on 16.02.2024 by Co-ordinate Bench of this Court and '*Amit Kumar & Ors. vs. State & Ors.*', CRL.M.C. 2106/2024, decided on 15.03.2024 by this Court.

9. Petitioner as well as respondent No. 2 & 3 are present in person and have been identified by SI Shamsheer Singh, P.S. Paschim Vihar, East. I have interacted with the parties and they confirm that the matter has been amicably settled between them without any threat, pressure or coercion. Respondent No. 2 & 3 also state that nothing remains to be further adjudicated upon between the parties and they have no objection in case the FIR in question is quashed.

10. Admittedly, in the present case, respondent No. 2 & 3 had visited the shop of petitioner, wherein father of the petitioner namely Laxman was not present at the relevant time. The dispute over loan amount was between respondent No.2 & 3 and Laxman. The unfortunate incident appears to have occurred since a scuffle ensued resulting in injuries on both sides in respect of which cross FIRs stand registered at the behest of petitioner as well as respondent No.2 & 3. It is disputed as to who initially assaulted the other side. This Court has already quashed the proceedings in relation to FIR No. 0689/2020 under Section 323/324/34 IPC registered against respondent No.2



& 3 vide order dated 07.05.2024 in CRL.M.C. 3627/2024, since the petitioner did not object to quashing of FIR. It is pertinent to note that the alleged object used by the petitioner in the incident could not be recovered during the course of investigation. Further respondent No. 2 & 3 suffered only simple injuries and were discharged on the same day. Considering the totality of facts and circumstances and nature of simple injury, the offence appears to fall under Section 324 IPC.

11. Parties being known to each other intend to put quietus to the proceedings and move forward in life. The settlement shall promote harmony between the parties. Even otherwise, in view of settlement, the chances of conviction are bleak. Considering the facts and circumstances, since the matter has been amicably settled between the parties, no useful purpose shall be served by keeping the case pending. Continuation of proceedings would be nothing but an abuse of the process of Court. Consequently, FIR No. 0688/2020 under Sections 307/324 IPC registered at P.S.: Paschim Vihar East and proceedings emanating therefrom stand quashed.

12. In the facts and circumstances, instead of imposing costs upon the petitioner, is directed to plant 50 saplings of trees, which are upto 03 feet after getting in touch with the competent authority (i.e. Horticulture Department of MCD/DDA/ Conservator of Forests, Department of Forests & Wildlife, Govt. of NCT of Delhi) through IO/SHO, P.S. Paschim Vihar East. The photographs of planted saplings alongwith report of IO/SHO concerned shall be forwarded to this Court within eight weeks. Further, the upkeep of the saplings/trees shall be undertaken by the authorities concerned. In case of non compliance of directions for planting of trees, the petitioner shall be liable to deposit cost of Rs. 50,000/- with the Delhi State Legal Services



Authority.

Petition is accordingly disposed of. Pending applications, if any, also stand disposed of.

A copy of this order be forwarded to the learned Trial Court for information.

ANOOP KUMAR MENDIRATTA, J.

MAY 09, 2024/akc