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

+ W.P.(CRL) 1729/2022 and CRL.M.A. 15138/2022 (stay)

MANGAL SINGH ALIAS JHAMMAN AND ORS Petitioners

Through: Mr. Faiz Imam, Advocate along with
Petitioners in person.

versus

STATE (N C T OF DELHI) AND ORS Respondents

Through: Mr. Yasir Rauf Ansari, ASC and
Mr.Alok Sharma and Mr. Vasu Agarwal,
Advocates with SI Onkar, PS: Badar Pur, for State.

Mr. Vinod Kumar, Advocate for and along with
Respondents No.2 to 4 in person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

16.05.2024

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1. This petition has been filed under Article 226 of the Constitution of India read with Section 482 Cr.P.C. seeking quashing of FIR No.379/2013 dated 25.10.2013 registered under Sections 323/34/341/506 IPC at PS: Badar Pur, and the proceedings emanating therefrom. Section 308 IPC was added later on. Charge sheet has been filed before the Trial Court.

2. As per the case of the prosecution, present FIR was registered on the statement of Prem Raj alleging that his neighbours namely, Jhamman and his mother, had serious grudges against his family. In the night of 24.10.2013, Jhamman abused him and when complainant's wife asked him to mind his language, he called his brothers Hemraj and Sita Ram.



Complainant and his brother Shiv Raj and father Nanak Ram also came out of the jhuggi, after hearing loud noises. Mother of Jhamman namely Puni Devi also came there and all the accused persons started beating the family members of the complainant with a stick and bricks/stones. Meanwhile, Jhamman gave a stick blow over the head of Nanak Ram, who suffered injuries and was hospitalised in AIIMS. MLCs were prepared and all the accused persons were arrested and sent to judicial custody, but were subsequently granted regular bail by the Sessions Court. Charge sheet has been filed by the police after completion of investigation. Prosecution evidence stands concluded before the Trial Court.

3. It is stated in the petition that all disputes have been amicably settled between the Petitioners/accused persons and Prem Raj, the complainant and Nanak Ram and Shiv Raj, the injured persons and a Memorandum of Understanding ('MoU') dated 06.06.2022 has been executed between them in this regard. The dispute was in respect to ownership and possession of Jhuggi No.115, Subhash Camp, Badar Pur, New Delhi, and parties have agreed and accepted that ownership/possession of Jhuggi No.115 is of the complainant and his family and accused persons will lay no claim over the same and complainant shall co-operate in quashing of the FIR. Copy of the MoU is appended to the petition, duly signed by the respective parties.

4. Learned ASC for the State opposes the quashing of the FIR on the ground that the prosecution evidence is over and the complainant has supported the prosecution case. He also states that State machinery has been used for a long time as the FIR was registered way-back in 2013 and if the Court is inclined to quash the FIR, without prejudice to the submissions, costs be imposed on the Petitioners.



5. Petitioners No.1 to 4 and Respondents No.2 to 4, are present in Court and are identified by the IO/SI Onkar, PS: Badar Pur. Respondents No.2 to 4 state that they have no objection to the quashing of the FIR in view of settlement between the parties. It is further stated that accused persons and the complainant as well as his injured family members are related to each other and are residents of the same village and wish to put a quietus to the litigation so that peace and harmony continues between the parties.

6. 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.

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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.”

7. Parties have mutually settled their disputes. In view of the settlement between the parties and the categorical stand of the complainants that they do not want to pursue the complaint, no useful purpose will be achieved in continuing the criminal proceedings emanating from the present FIR as the



chances of conviction are bleak. Moreover, the main dispute was regarding ownership/possession of Jhuggi No.115, which has been settled and complainant is in peaceful possession. Parties are closely related and belong to the same village and do not wish to increase the acrimony. It would thus be in the interest of justice to terminate the criminal proceedings. This Court is fortified in its view by the decisions of the Co-ordinate Benches of this Court in *Ajit Singh & Ors. v. State of NCT of Delhi & Anr., CRL.M.C. 5091/2022*, decided on 13.12.2022 and *Sh. Kamal Rathor & Ors. v. State of NCT of Delhi & Anr., CRL.M.C. 903/2024*, decided on 01.04.2024, where Courts have quashed FIRs under similar provisions, predicated on settlements between the parties, in the interest of justice.

8. Accordingly, FIR No.379/2013 dated 25.10.2013 registered under Sections 323/34/341/506 IPC at PS: Badar Pur, is quashed including proceedings emanating therefrom, subject to payment of cumulative cost of Rs.10,000/- by the Petitioners in favour of Juvenile Justice Centre, S.B. A/c No.15530110000359, UCO Bank, Delhi High Court Branch, New Delhi, within 2 months from today. Proof in support thereof shall be filed with the Registry within one week thereafter and in case of failure to comply with the said direction, petition will be listed before Court by the Registry.

9. Petition is allowed and disposed of along with pending application.

JYOTI SINGH, J

MAY 16, 2024

B.S. Rohella