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

+ **W.P.(CRL) 1595/2024**

RISHABH @ CHANDAN UPDHYAY

..... Petitioner

Through: Mr. Pankaj Tyagi and Mr. Vishal
Upadhyay, Advocates.

versus

THE STATE NCT OF DELHI AND ANR

..... Respondent

Through: Mr. Rahul Tyagi, ASC and
Ms.Devashna Bhatia, Mr. Akshay Kumar,
Mr.Rahul Sadara and Mr. Ambhuj Kumar Singh,
Advocates along with IO/SI Manjeet Singh, PS:
Cyber and SI L. Lama, PS: Sagarpur, for State.
Respondent No.2 in person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

22.05.2024

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1. This writ petition has 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.44/2023 dated 22.12.2023 registered under Section 420 IPC at PS: Cyber Police Station, New Delhi, along with proceedings emanating therefrom, predicated on a settlement between the Petitioner and Respondent No.2.
2. Case of the prosecution is that the present FIR was registered on the complaint of Ajay Malhotra, who alleged that he received a promotional offer on eggs and chicken and accordingly used his ICICI Bank Credit Card to transact for a sum of Rs.98/-. However, after putting in the OTP, he received a message from his Bank that he had been charged Rs.52,792/-,



whereafter he lodged a complaint with the CC Fraud Department of ICICI Bank and the Cyber Police Station and present FIR was registered.

3. It is stated that during the pendency of the criminal proceedings, other three co-accused in the present FIR have already paid Rs.54,000/- to Respondent No.2, in furtherance of a settlement agreement between them and on this basis, FIR has been quashed qua them by this Court, vide order dated 03.04.2024 in W.P.(CRL.) 835/2024. Thereafter, Petitioner and complainant have also resolved their disputes and a Memorandum of Understanding dated 13.05.2024 has been executed between the parties, copy of which has been placed on record. Complainant has agreed to bury the hatchet since he has received his money and co-operate in quashing of the FIR against the Petitioner.

4. Issue notice.

5. Learned ASC accepts notice on behalf of the State.

6. Respondent No.2/complainant, who has joined the Court proceedings virtually, accepts notice and is identified by the Investigating Officer SI Manjeet Singh, PS: Cyber Cell. He submits that since he has already recovered his dues from the other three co-accused, he wants to put a quietus to the matter and does not wish to pursue the present complaint and has no objection to the quashing of the FIR. Learned ASC takes a stand that since parties have settled and the complainant does not want to prosecute the complaint any further, no purpose will be achieved in continuing the criminal proceedings.

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.

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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.”

8. 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.”

9. Parties have mutually settled all their disputes. Complainant makes a categorical statement that he does not wish to pursue the present complaint as he has received his money. Based on a settlement with the other three co-accused, this Court has quashed the FIR qua them, as aforementioned. In these facts and circumstances, the chances of conviction are bleak and it would 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 ***Sankalp Zibbu & Anr. v. State of NCT of Delhi & Anr., W.P.(CRL.) 1909/2021***, decided on 11.01.2022 and ***Gurmeet Singh v. State NCT of Delhi and Anr., W.P.(CRL.) 2899/2022***, decided on 05.12.2022, wherein FIRs under same provisions have been quashed by the Courts, based on mutual settlements between the parties.

10. Accordingly, FIR No.44/2023 dated 22.12.2023 registered under Section 420 IPC at PS: Cyber Police Station, New Delhi, is quashed along with proceedings emanating from the said FIR.

11. Petition is allowed and disposed of.

JYOTI SINGH, J

MAY 22, 2024
B.S. Rohella