



2024:DHC:810



\$~29

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

Date of decision: 01.02.2024

+ **CRL.M.C. 4017/2022**

SANJAY KUMAR & ORS. Petitioners
Through: Mr.Yusuf Khan, Mr.Vipin
Gupta, Mr.Jatin Sharma,
Mr.Amit Sharma and
Mr.Khusheed Anwar, Advs.
versus

THE STATE (GOVT. OF NCT OF DELHI) & ORS.
..... Respondents
Through: Mr.Aman Usman, APP with
ACP Rajendar Kumar, ACP
Bijender Singh, Insp. Javed
Yunus and Insp. Rajeev Vats
Mr.Shashi Kamal, Mr.Rahul
Gautam, Ms.Sarita Gautam, and
Ms.Chandan Kannojiya, Advs.
for R-2 to R-4 along with R-2
to R-4(through VC)

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') seeking quashing of FIR No.0327/2019 registered at Police Station: Ghazipur, Delhi for offences under Sections 323/308/506/452/34 of the Indian Penal Code, 1860 (in short, 'IPC') and Section 3(1)(u) of the Scheduled



2024:DHC:810



Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short, 'SC/ST Act'), on the basis of settlement arrived at between the petitioners and the complainant/injured.

2. It is the case of the prosecution that the Complainant, in his statement, had stated that when he along with his wife were going to clean their water tank, one of the co-accused persons, namely Sanju, that is, the petitioner no. 2 herein, who was standing in front of his house, made a casteist remark against the Complainant. When the Complainant objected to the same, he continued with the casteist remarks and started beating him. Meanwhile, the other co-accused persons also joined using casteist remarks and started beating him. The son of the Complainant tried to intervene, however, he was also beaten. In the fight, he suffered fracture on both his hands and other injuries as well.

3. On the above allegations, charge-sheet was filed and, on 28.02.2022, charges under Sections 323/308/452/506/34 of the IPC have been framed against all the accused persons, while charge under Section 3(1)(s) of SC/ST Act was framed against the accused Sanju Kumar @ Kallu, that is, the petitioner no. 2 herein, Dharamwati, that is, the petitioner no. 4 herein, Sumit Kasana, that is, the petitioner no. 9 herein, Monty, that is, the petitioner no. 6 herein, and Sanjay Kumar, that is, the petitioner no. 1 herein. The case is pending trial, and three out of 15 witnesses have already been examined.

4. The learned counsel for the petitioners, placing reliance on the judgment of the Supreme Court in *Ramawatar v. State of Madhya Pradesh* (2022) 13 SCC 635, and the Order dated 04.03.2022 passed



2024:DHC:810



in SLP (Criminal) No. 8242/2021 titled *Manoj Agarwal & Anr. v. The State of Uttar Pradesh & Anr.*, submits that the fight had occurred between the neighbours over a petty issue. He submits that the petitioners have amicably settled their disputes with the Complainant, and the Complainant is no longer interested in pursuing his complaint.

5. The Complainant and his wife have appeared virtually and have been duly identified by the Investigating Officer (IO). They also submit that they are not interested in pursuing the complaint against the petitioners. They submit that the fight had occurred due to a petty issue for which the petitioners have profusely apologized. Now, to maintain good relationships in the neighborhood, they do not wish to pursue the complaint any further.

6. The learned counsel for the petitioners submits that the petitioners themselves do not belong to an upper caste, but are OBC. He submits that the petitioner no. 5 is aged around 84 years and is blind, while the petitioner no. 4 is 78 years old.

7. On the other hand, the learned APP opposes the present petition by submitting that in the present case, the Complainant has suffered fractures in both his hands. He submits that this fully corroborates the statement of the Complainant made to the police. He further submits that the charges are so grave that they should not be set aside only on the ground of the Complainant having settled the disputes or not wanting to further prosecute the petitioners. He submits that, in the present case, apart from the statement of the Complainant, there is other evidence also collected during the investigation, which can



prove the charges against the petitioners. In support, he places reliance on the judgment dated 04.11.2022 of this Court in Crl.M.C. 1208/2022, titled *Mohd. Saleman v. The State (GNCTD of Delhi) & Anr.*, and of the Supreme Court in *The State of Madhya Pradesh v. Laxmi Narayan* (2019) 5 SCC 688, to contend that the offences which are not private in nature and have a serious impact on the society, cannot be quashed merely on the basis of a settlement entered into by the complainant(s) and the offender(s).

8. I have considered the submissions made by the learned counsels for the parties.

9. In *Narinder Singh v. State of Punjab*, (2014) 6 SCC 466, the Supreme Court has laid down the principles that should guide the High Court in considering an application under Section 482 Cr.P.C. while accepting the settlement and quashing the proceedings involving a non-compoundable offence or refusing to accept such settlement, as under:

“29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:-

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.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

29.6. Offences under Section 307 IPC would fall in the category of heinous and serious



offences and therefore are to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used, etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

29.7. While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases where the charge



is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come to a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.”

(Emphasis Supplied)

10. In **Laxmi Narayan** (Supra), the Supreme Court has laid down the parameters under which the High Courts shall exercise the power conferred under Section 482 of the Cr.P.C.. The Court held that, though the Courts must be slow in exercising their jurisdiction under Section 482 of the Cr.P.C. for quashing the proceedings arising out of offences punishable under Sections 307/308 IPC, the High Courts are not deprived of exercising the powers under Section 482 of Cr.P.C. in certain special circumstances. It was held that the Court shall weigh on the factors, including the nature of injuries, stage of the



proceedings, etc. It was held as under:

“15.4. Offences under Section 307 IPC and the Arms Act, etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act, etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delicate parts of the body, nature of weapons used, etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge-sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paras 29.6 and 29.7 of the decision of this Court in Narinder Singh v. State of Punjab, (2014) 6 SCC 466 should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;”

11. In the present case, it is not disputed that the petitioners and the Complainant are neighbours. The factum of the fight also cannot be



2024:DHC:810



disputed. The Complainant has also suffered injuries in the incident. The Complainant now states that the fight occurred due to some misunderstanding with the petitioners and he does not wish to pursue the complaint. He submits that the petitioners have apologised for their conduct. It is also not alleged that the petitioners have any other criminal antecedents. While the offences for which the petitioners have been charged are non-compoundable and are grave in nature, keeping in view the overall circumstances, including the fact that the petitioners claim that they themselves are OBC, and the age of two of the petitioners, in my view, no useful purpose would be served in continuing with the proceedings in the present FIR and it would rather create further acrimony between the parties and will be an unnecessary burden on the State exchequer.

12. Guided by the principles enunciated by the Supreme Court in its judgments in *Gian Singh v. State of Punjab*, (2012) 10 SCC 303; *Parbatbhai Aahir @ Parbatbhai Bhimsinbhai Karmur & Ors. v. State of Gujarat & Ors.* (2017) 9 SCC 641; *State of Haryana & Ors. v. Bhajan Lal & Ors.* 1992 Supp (1) SCC 3; *Narinder Singh* (supra); and *Laxmi Narayan* (Supra), this Court deems it appropriate, in the interest of justice, to exercise its inherent powers under Section 482 of the Cr.P.C. to quash the FIR and all the proceedings emanating therefrom.

13. Accordingly, the petition is allowed. FIR No. 0327/2019 registered at Police Station: Ghazipur, Delhi under Sections 323/308/506/452/34 of the IPC and Section 3(1)(u) of the SC/ST Act and all consequential proceedings emanating therefrom against the



2024:DHC:810



petitioners are quashed. However, at the same time, looking into the gravity of the accusation made against the petitioners, the petitioners are burdened with costs of Rs.20,000/- each, to be deposited jointly and severally with the Delhi State Legal Services Authority within a period of two weeks from today. The petitioners shall file proof of such deposit with the Registry of this Court and also supply a copy thereof to the IO, within the said period.

14. The costs so deposited shall be utilised by the Delhi State Legal Services Authority for providing support to the POCSO Victims requiring such assistance.

15. The petition is disposed of in the above terms.

NAVIN CHAWLA, J

FEBRUARY 1, 2024/ns/am

Click here to check corrigendum, if any