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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 4312/2019**

VINOD KUMAR & ORS. Petitioner

Through: Mr. Ajit Nair & Nair &
Mr. Harsha, Advs. with
Petitioner No. 2 and 3 in
person.

versus

STATE & ANR. Respondent

Through: Mr. Yadvir Singh
Chauhan, APP for the
State with SI Jitender
Kumar, PS Darya Ganj.
Mr. Jitender Kumar, Adv.
for LR's of R-
2/complainant.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

% **ORDER**
05.01.2024

1. The present petition is filed for quashing of FIR No.415/2006 dated 06.06.2006, under Sections 380/420/468/471/511 of Indian Penal Code, 1860 (IPC), registered at Police Station Darya Ganj. The FIR was registered on a complaint filed by one Monish Nayyar, who is arrayed as Respondent No. 2 in the present petition.

2. The present FIR No.415/2006 was registered on a complaint given by Respondent No.2, on account of some missing cheques from his cheque books, which were being used to take out money from his account.

3. It was alleged by the complainant that he had given 16
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cheque books for printing to the printing house namely K.K. Printers, and 3 cheques bearing no's 136858, 136885 and 136883 were noticed to be missing from the said cheque books. The complainant thereafter inquired from the printing house about the missing cheques and on them denying about having those cheques, the complainant wrote a letter to Bank of Maharashtra requesting them to immediately stop the payment on the concerned cheques if presented.

4. The bank informed the complainant that the cheque no.136885 has been presented on 30.05.2006 for a sum of ₹8,00,000/- by Petitioner No. 2, which led to the filing of the present FIR No. 415/2006.

5. Learned counsel for the petitioners submits that during the pendency of the present petition, Respondent No. 2 expired and the legal heirs of the Respondent No. 2 have no objection if the present FIR is quashed *qua* the present petitioners. The petition is supported with the Vakalatnama and duly sworn affidavits of the legal heirs of the complainant / Respondent No. 2. The legal heirs of the complainant have also joined the present proceedings through video conferencing and are identified by Sh. Jitender Kumar, Advocate.

6. On a specific query, the learned counsel for the legal heirs of the complainant, on instructions, has affirmed that they have no objection if the FIR is quashed and they do not want to pursue any proceeding pursuant to the present FIR against the petitioners.

7. Even though the FIR was lodged way back in the year 2006, the charges are yet to be framed.

8. Offences under Sections 380/468/471/511 of IPC are non-compoundable whereas offence under Section 420 of IPC is
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compoundable in nature.

9. It is well settled that the High Court while exercising powers under Section 482, CrPC, can compound offences which are non-compoundable under CrPC on the ground that there is a compromise between the accused and the complainant. The Hon'ble Apex Court has laid down parameters and guidelines for High Courts exercising jurisdiction under Section 482 for quashing of proceedings on the ground of settlement. In ***Narinder Singh & Ors. V. State of Punjab & Anr.*** reported as (2014) 6 SCC 466, the Supreme Court has observed 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.”

(emphasis supplied)

10. Similarly, in *Parbatbhai Aahir & Ors v. State of Gujarat & Anr.* reported as (2017) 9 SCC 641, the Supreme Court has observed as under :-

“16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions:

16.1. Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court.

16.2. The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.



16.3. In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.

16.4. While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court.

16.5. The decision as to whether a complaint or first information report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated.

16.6. In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. **Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.**

16.7. As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned.

16.8. Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

16.9. In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and



16.10. There is yet an exception to the principle set out in propositions 16.8. and 16.9. above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.”

(emphasis supplied)

11. Keeping in view the aforesaid principle and the nature of dispute and the fact that the parties have amicably settled, this Court feels that no useful purpose will be served by keeping the dispute alive and continuance of the proceedings would be an abuse of process of Court. I am of the considered opinion that this is a fit case to exercise extraordinary discretionary jurisdiction under Section 482 of CrPC.

12. However, keeping in mind the fact that the State machinery has been put to motion, and the chargesheet in the present case was filed way back in the year 2008, the petitioners should be put to cost.

13. In view of the above, FIR No. 415/2006, and all consequential proceedings arising therefrom, only with respect to the present petitioners namely Vinod Kumar, Virender Kumar @ Nihal and Hemant @ Harish are quashed, subject to the payment of cost of ₹5,000/- each (Rupees Ten Thousand Only) to be deposited with the Delhi Police Welfare Fund.

14. Let the copy of this order also be communicated to the learned Trial Court.

AMIT MAHAJAN, J

JANUARY 5, 2024

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