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

+ **CRL.M.C. 4931/2024**

RAJIV SEAHRAWAT @ RAJUPetitioner

Through: Mr. Akshay, Adv.
Petitioner in person

versus

STATE OF NCT OF DELHI & ORS.Respondents

Through: Mr. Rajkumar, APP for
the State
SI Rohit, PS-Bawana
Mr. Gaurav Sharma, Adv.
for R2 & R3
R2 & R3 in person

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **20.09.2024**

CRL.M.A. 18869/2024 (for exemption)

1. Exemptions allowed, subject to all just exceptions.
2. The application stands disposed of.

CRL.M.C. 4931/2024

3. The present petition is filed seeking quashing of FIR No. 265/2024 dated 06.04.2024, registered at Police Station Bawana, for offences under Sections 386/506/120B/34 of the Indian Penal Code, 1860 ('IPC'). The FIR was registered on a complaint made by Respondent No. 2. Chargesheet has been filed in the present case against the petitioner for offences under Sections 386/506/120-B/427/195A/34 of the IPC.

4. Is averred that Respondent No. 2 used to work as a Gas cylinder supplier in DSIIDC, Bawana factory. It is alleged that accused Gaurav @ Monti had called Respondent No.2 and demanded a ransom of ₹5,000/- per month. It is alleged that accused Gaurav had stated that the ransom was to be paid every month if Respondent No.2 wanted to stay alive and carry on his



business. It is alleged that accused Devender and Mohit had also previously demanded ransom and threatened Respondent No.2 of dire harm. It is alleged that on 04.04.2024, Respondent No. 2 saw 5-6 persons, including, accused persons Devender, Mohit and Vishal when he reached near the Shankar Adda. It is alleged that the accused persons gave beatings to Respondent No.2 by sticks and iron rods. It is also alleged that Respondent No.2 was threatened at gun point by accused Mohit. This incident led to registration of the aforementioned FIR.

5. During investigation, Respondent No.3 went to the police station and informed that he was supplying gas cylinders in DSIIDC Bawana and he had received a call a couple days back wherein the caller had asked him to tell Respondent No.2 to take back the complaint against accused Gaurav. He alleged that the caller had also threatened him with dire consequences if the complaint was not withdrawn. The caller had informed Respondent No.3 that his name was 'Rajiv'(petitioner). It is alleged that the petitioner had made a similar call to Respondent No.2.

6. The learned counsel for the petitioner submits that the petitioner's name was given on a misunderstanding and he had not even been named in the FIR

7. He submits that the misunderstanding has since been resolved between the parties and Respondent Nos. 2 and 3 have realized their mistake. He submits that the parties wish to live peacefully in the future.

8. The present petition is filed on the ground that the parties have settled their disputes, with the intervention of elders and friends, and have also executed a Settlement Deed dated 18.06.2024 to this effect, on their own free will, without any coercion, undue influence, pressure or threat.



9. The parties are present in person and have been duly identified by the Investigating Officer.

10. Respondent Nos. 2 and 3 state that the name of the petitioner was taken on a misunderstanding. They submit that they do not wish to pursue the proceedings against the petitioner and have no objection if the FIR is quashed *qua* him.

11. The learned Additional Public Prosecutor opposes the quashing of the present FIR and submits that there is a possibility that Respondent Nos. 2 and 3 have been threatened.

12. Respondent Nos. 2 and 3, on being pointedly asked, submit that the settlement was arrived at without any force or pressure from the petitioner and reiterate that the petitioner's name was given on a misunderstanding.

13. Offences under Sections 427/506 of the IPC are compoundable whereas offences under Sections 386/195A of the IPC are non-compoundable.

14. It is well settled that the High Court while exercising its powers under Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023 ('BNSS') (*erstwhile* Section 482 of the Code of Criminal Procedure, 1973) can compound offences which are non-compoundable 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 Court while accepting settlement and quashing the proceedings. In the case of **Narinder Singh & Ors. v. State of Punjab & Anr. : (2014) 6 SCC 466**, the Hon'ble Supreme Court had 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)

15. Similarly, in the case of ***Parbatbhai Aahir & Ors. v. State of Gujarat & Anr. : (2017) 9 SCC 641***, the Hon'ble Supreme Court had 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)

16. Offences under Sections 386/195A of the IPC are serious in nature and cannot be categorized as offences *in personam*. In the present case, the chargesheet was filed against the petitioner on a statement of Respondent No.3 alleging that the petitioner had called him and asked him to tell Respondent No.2 to withdraw the present FIR.

17. It is relevant to note that the FIR was initially registered on a complaint given by Respondent No.2 alleging that extortion calls were made by some persons. The petitioner was not named in the same. Admittedly, the petitioner had not made any extortion call but is accused to have made Respondent No.3 to tell Respondent No.2 to withdraw the complaint. Respondent Nos. 2 and 3 have explicitly stated that the name of the petitioner was given on a misunderstanding. In the peculiar circumstances of this case, it is unlikely that the present FIR will result in a conviction when Respondent Nos. 2 and 3 do not wish to pursue the case. In such circumstances, continuance of the proceedings would only cause harassment and heart burn amongst the parties.

18. Keeping in view the nature of dispute and the fact that the parties have amicably settled the dispute, this Court feels that no useful purpose would be served by keeping the dispute alive and continuance of the proceedings would amount to abuse of the process of Court. I am of the considered opinion that it is a fit case to exercise discretionary jurisdiction under Section 528 of the BNSS.



19. However, keeping in mind the fact that the charge sheet has already been filed in the case arising out of the present FIR, and the State machinery has been put to motion, ends of justice would be served if the petitioner is put to cost.

20. In view of the above, FIR No. 265/2024 and all consequential proceedings arising therefrom are quashed *qua* the petitioner, subject to payment of cost of ₹10,000/- by the petitioner, to be deposited with the Delhi Police Welfare Society, within a period of twelve weeks from date.

21. Proof of deposit of cost shall be furnished to the concerned SHO.

22. It is made clear that this Court has not impeded further proceedings in the present FIR against other accused persons.

23. The petition is allowed in aforesaid terms.

AMIT MAHAJAN, J

SEPTEMBER 20, 2024/“SS”