



2024:DHC:5151



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 12.07.2024

+ W.P.(CRL) 2078/2024

HARSHVARDHAN GAUTAM & ANR.Petitioners

Through: Mr. Narender Malawaliya, Adv.

versus

THE STATE NCT OF DELHI AND ANRRespondents

Through: Mr. Rahul Tyagi, ASC (Crl.) with Ms. Tamanna Chaudhary, Ms. Tanya Verma, Mohd. Irfan, Mr. Waseem Shuaib Ahmed, Ms. Priya Jha and Mr. Hardeep Singh, Advs.

SI Sunil Chandra, PS Ambedkar Nagar.

Respondent No. 2 in person.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

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J U D G M E N TANOOP KUMAR MENDIRATTA, J (ORAL)CRL.M.A. 20126/2024

Exemption allowed, subject to just exceptions.

Application stands disposed of.

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1. Petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioners for quashing of FIR No. 0454/2019, under Section 420/406 IPC, registered at P.S.: Ambedkar Nagar and proceedings emanating therefrom.



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2. Issue notice. Learned ASC for the State and respondent No. 2 in person appear on advance notice and accept notice
3. In brief, as per the case of prosecution, present FIR was registered on 24.09.2019 on complaint of respondent No. 2 against the petitioners pursuant to directions under Section 156(3) Cr.P.C. with respect to alleged transaction for loan/investment of Rs. 2,00,000/- and Rs. 3,50,000/-.
4. Learned counsel for petitioners submits that the dispute between the parties have since been settled and an amount of Rs. 4,50,000/- has already been returned in terms of Settlement Deed dated 30.09.2021. He also informs that petitioners have clean antecedents.
5. DD No. 942679 dated 21.05.2024, drawn on Punjab National Bank, Kalkaji, New Delhi Branch for amount of Rs. 50,000/- has been further handed over today to respondent No. 2.
6. Respondent No. 2 in-person submits that in view of receipt of amount and settlement between the parties, he has no longer any grievance in this regard and nothing remains to be further adjudicated upon between the parties.
7. Learned ASC for the State submits that in view of amicable settlement between the parties, he has no objection in case the FIR in question is quashed. On instructions of IO/SI Sunil Chandra, he further informs that there is no other complainant in the said FIR and the dispute between petitioners and respondent No. 2 pertains to return of loan amount.
8. Petitioners in the present case seek to invoke the powers under Section 482 of the Code of Criminal Procedure. The same is to be used to secure the ends of justice or to prevent the abuse of process of Court. In which cases, the power to quash the criminal proceedings or the complaint or FIR may be



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used when the offender as well as victim have settled their dispute, would depend upon the facts and circumstances of each case and no generalized list or categories can be prescribed. However, the Court is required to give due regard to the nature and gravity of the offence and consider the impact on the society.

9. It may also be observed that heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot be appropriately quashed despite settlement. However, distinguished from serious offences, the offences which have predominant element of civil dispute or offences involving minor incidents, where the complainant/victim also stands compensated for loss, if any, stand on a different footing, so far as exercise of inherent powers under Section 482 Cr.P.C. is concerned. The High Court also is not foreclosed from examining as to whether there exists material for incorporation of such an offence or as to whether there is sufficient evidence which if proved would lead to proving the charge for the offence charged with. It may also be assessed, if in view of compromise between the parties, the possibility of conviction in such a case is remote and whether continuation of proceedings would cause grave oppression and prejudice the accused. Reference may also be made to *Sunil Tomar vs. The State of NCT of Delhi & Anr.*, CRL.M.C.1741/2021, decided on 12.04.2022 by Coordinate Bench of this Court and *Rajni Khare vs. State & Anr.*, CRL.M.C. 2930/2021, decided on 19.03.2024 by this Court, wherein the proceedings under Section 406/420 IPC were quashed on the basis of settlement between parties.

10. Petitioners and respondent No. 2 are present in person and have been identified by SI Sunil Chandra, PS Ambedkar Nagar. I have interacted with



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the parties and they confirm that the matter has been amicably settled between them without any threat, pressure or coercion. Respondent No. 2 also states that he has no objection in case the FIR in question is quashed.

11. Petitioners and respondent No. 2 intend to put quietus to the proceedings arising out of loan transaction. The settlement shall promote harmony between the parties and permit them to move forward in life. Also the chances of conviction are bleak in view of amicable settlement between the parties. Further, no past involvements of the petitioners have been brought to the notice of this Court.

12. Considering the facts and circumstances, since the matter has been amicably settled between the parties, no useful purpose shall be served by keeping the case pending. Continuation of proceedings would be nothing but an abuse of the process of Court. Consequently, FIR No. 0454/2019, under Section 420/406 IPC, registered at P.S.: Ambedkar Nagar and proceedings emanating therefrom stand quashed.

13. In the facts and circumstances, instead of imposing the costs upon the petitioners, they are directed to plant 10 saplings of trees (5 sapling each), which are upto 03 feet in height within the jurisdiction of P.S. Ambedkar Nagar after getting in touch with the competent authority (i.e. Horticulture Department of MCD/DDA/Conservator of Forests, Department of Forests & Wildlife, Govt. of NCT of Delhi) through IO/SHO, P.S. Ambedkar Nagar. The photographs of planted saplings alongwith report of IO/SHO concerned shall be forwarded to this Court within eight weeks. Further, the upkeep of the saplings/trees shall be undertaken by the authorities concerned. In case of non compliance of directions for planting of trees, the petitioners shall be liable to deposit cost of Rs. 5,000/- each with the Delhi State Legal Services



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Authority.

Petition is accordingly disposed of. Pending applications, if any, also stand disposed of.

A copy of this order be forwarded to learned Trial Court for information.

ANOOP KUMAR MENDIRATTA, J.

JULY 12, 2024/akc