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

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+ CRL.M.C. 7568/2023

DHARAMPAL KAUR

..... Petitioner

Through: Dr. Sarbjit Sharma, Ms. Rudrakshi
Gautam and Ms. Himani Rawat, Advocates

versus

GOVT. OF NCT DELHI & ANR.

..... Respondents

Through: Ms. Richa Dhawan, APP for State
with HC Sandesh Kumar, AATS/SD.

Mr. Vikas Chadha, Advocate for Mr. Virender
Nehra (Power of Attorney Holder of Ms. Preeti
Nehra and Ms. Palak Nehra).

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+ CRL.M.C. 7600/2023

DHARAMPAL KAUR

..... Petitioner

Through: Dr. Sarbjit Sharma, Ms. Rudrakshi
Gautam and Ms. Himani Rawat, Advocates

versus

GOVT. OF NCT OF DELHI & ANR.

..... Respondents

Through: Ms. Richa Dhawan, APP for State
with HC Sandesh Kumar, AATS/SD.

Mr. Vikas Chadha, Advocate for Mr. Virender
Nehra (Power of Attorney Holder of Ms. Preeti
Nehra and Ms. Palak Nehra).

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

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20.02.2024

CRL.M.A. 28173/2023 (exemption) in CRL.M.C. 7568/2023



1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CRL.M.C. 7568/2023 & CRL.M.A. 28171/2023 (directions) & CRL.M.A. 33959/2023 (directions)
CRL.M.C. 7600/2023 & CRL.M.A. 28266/2023 (directions) & CRL.M.A. 33960/2023 (directions)

3. CRL.M.C. 7568/2023 has been preferred on behalf of the Petitioner under Section 482 Cr.P.C. seeking quashing of FIR No. 355/2019 dated 17.09.2019 under Section 174A IPC registered at PS: Janak Puri.
4. CRL.M.C. 7600/2023 has been preferred on behalf of the Petitioner under Section 482 Cr.P.C. seeking quashing of FIR No. 353/2019 dated 17.09.2019 under Section 174A IPC registered at PS: Janak Puri.
5. It is the case of the Petitioner that her son was running the business of beauty salon and Petitioner was a partner in the said business. Premises for the purpose of running the beauty salon was taken from Respondent No. 2 in Dwarka, New Delhi. Initially, the salon business was doing well, however, after some time, business went in losses and the salon was shut down. Cheques towards the outstanding payments to Respondent No. 2 were issued but were dishonoured for “lack of funds” in the bank account of the Petitioner. This led to Respondent No. 2 filing complaints under Section 138 of Negotiable Instruments Act, 1881 (‘NI Act’) being CC No. 24931/2018 titled *Palak Nehra (through attorney Virender Nehra) v. Strands Universe LLP*; CC No. 24932/2018 titled *Preeti Nehra (through attorney Virender Nehra) v. Strands Universe LLP* and CC No. 24934/2018 titled *Virender Nehra v. Strands Universe LLP*.
6. It is further stated that learned MM issued summons against the



Petitioner but the same were never served on her and even the warrants of arrest were not executed since the Petitioner was hospitalized on account of knee surgery and was bedridden. Without looking into the fact that the summons and warrants were both unexecuted, the Trial Court issued process under Sections 82 and 83 Cr.P.C. and Petitioner was declared a Proclaimed Offender, pursuant to which, present FIRs were registered under Section 174A IPC on 17.09.2019 at PS: Janak Puri.

7. It is averred that during the pendency of the proceedings, the disputes between the parties have been amicably resolved and Memorandum of Understanding was executed on 23.09.2023, copy of which has been filed with the petition. As per the terms of settlement, Respondent No. 2 has agreed to withdraw all the three complaints upon payment of consolidated amount of Rs.11 lacs, out of which a sum of Rs.9 lacs stands paid on 23.09.2023 and the balance amount of Rs. 2 lacs was payable at the time of quashing of the present FIRs.

8. Learned counsel for the Petitioner points out that amended memo of parties has been filed and Ms. Palak Nehra and Ms. Preeti Nehra have been impleaded through their Power of Attorney Mr. Virender Nehra, who is also their father and had filed the complaints under Section 138 NI Act, as a Power of Attorney holder. Mr. Virender Nehra is present in Court and has been identified by his counsel. It is stated that the Complainant has no objection to the present FIRs being quashed as the matter has been settled between the parties and balance sum of Rs.2 lacs has been received. Learned APP for the State also states that the State has no objection since the complaints pertain to dishonour of cheques and parties have settled the matter and the terms of settlement have been complied with.



9. The Supreme Court has delineated the parameters following which the inherent powers under Section 482 Cr.P.C. must be exercised. It has been affirmed and re-affirmed that the extraordinary powers should be sparingly exercised and with care and caution and can be used to prevent abuse of the process of Court or to secure ends of justice and in each case, it would be dependent on the facts and circumstances that arise. In ***Gian Singh v. State of Punjab and Another, (2012) 10 SCC 303***, the Supreme Court held as follows:-

“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 predominately 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.”

10. Supreme Court in ***Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and Others v. State of Gujarat and Another, (2017) 9 SCC 641***, reiterated the parameters for exercising inherent jurisdiction under Section 482 Cr.P.C. for quashing of FIR/criminal complaint and relevant passages are as follows:-

“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."*

11. Parties have settled and resolved all their disputes and Complainants represented by their Power of Attorney holder take a categorical position that they do not wish to prosecute the complaints. Therefore, no useful purpose will be achieved in continuing the proceedings, as the chances of conviction are bleak. This Court is fortified in its view by the judgments of this Court in ***Sanjeev Srivastava & Another v. State of NCT of Delhi &***



Others, 2023 SCC OnLine Del 6965 and Deepak Rathod v. State and Another, 2023 SCC OnLine Del 4869, where FIRs registered under Section 174A IPC have been quashed on the basis of settlements entered into between the parties therein.

12. Therefore, in the interest of justice and to prevent abuse of the process of the Court, this Court in exercise of its inherent powers under Section 482 Cr.P.C. hereby quashes FIR No. 355/2019 dated 17.09.2019 under Section 174A IPC registered at PS: Janak Puri and FIR No. 353/2019 dated 17.09.2019 under Section 174A IPC registered at PS: Janak Puri, including proceedings emanating therefrom.

13. Petitions along with pending applications stand disposed of.

JYOTI SINGH, J

FEBRUARY 20, 2024/kks