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

+ **CRL.M.C. 6032/2022**

SANDEEP KUMAR @SANJEEV KUMAR & ANR.

..... Petitioners

Through: Mr.Sandeep Verma, Adv. along
with the petitioners in person.

versus

THE STATE (NCT OF DELHI) & ORS.

..... Respondents

Through: Mr.Shoaid Haider, APP.
SI Ajeet Kumar, PS Neb Sarai.
Mr.Kamal Saini, Adv. for R-2
& R-3.
Respondent nos.2 and 3 present
in person.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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20.02.2024

1. As respondent nos.2 and 3 are being represented by a private counsel, Mr.Siddharth Arora, learned counsel appointed by the Delhi High Court Legal Services Committee (DHCLSC) for the respondent nos.2 and 3, is discharged from appearing for them.
2. 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.1092/2014 registered at Police Station: Neb Sarai, South-District, New Delhi under Sections 308/34 of the Indian Penal Code, 1860 (in short, 'IPC'), along with all other proceedings arising therefrom, on the basis of a settlement.
3. It is stated that the petitioners and the respondent nos.2 and 3



are family members (cousins) and the disputes arose out of some petty issues between the parties, which led to the filing of the above FIR.

4. The learned counsel for the petitioners submits that the parties have amicably settled their *inter se* disputes and have entered into a Settlement Agreement/Compromise dated 11.11.2022.

5. The respondent nos.2 and 3 are present in person in Court and have been duly identified by the Investigating Officer (IO). They state that they have no objection on the present FIR being quashed as it was a result of some misunderstanding between the parties. They reaffirm the settlement and state that they have settled all their disputes with the petitioners of their own free will and without any coercion.

6. On the other hand, the learned APP opposes the prayer made in the present petition contending that the allegations against the petitioners are grave in nature, including under Section 308 of the IPC. He submits that the injured had suffered injuries including on his head.

7. I have perused the contents of the FIR, the Charge Sheet, and also the settlement between the parties.

8. In *The State of Madhya Pradesh v. Laxmi Narayan*, (2019) 5 SCC 688, the Supreme Court has laid down the parameters under which the High Courts shall exercise the power conferred under Section 482 Cr.P.C. The Court held that, though the Courts must be slow in exercising their jurisdiction under Section 482 for quashing the proceedings arising out of offences punishable under Section 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;”

9. In **Manoj Kumar & Ors. v. State & Anr.**, Neutral Citation



No.2016:DHC:2419, a learned Single Judge of this Court reiterated the above principle, as under:

“9. As discussed above, offence punishable under Section 308 IPC is not compoundable being of serious nature, however, if the Court feels that continuation of criminal proceedings will be an exercise in futility and justice in this case demands that the dispute between the parties is put to an end and peace is restored, it can order for quashing of the FIR or criminal proceedings as it is the duty of the Court to prevent continuation of unnecessary judicial process.”

10. The above view was reiterated by this Court in ***Mahender Singh @ Sunny & Anr. v. The State & Ors.***, Neutral Citation No.2021:DHC:978, while quashing an FIR filed under Section 308 of the IPC.

11. Keeping in view the nature of the injuries suffered by the injured, the allegations in the FIR, the fact that the parties are family members, and that the respondent nos.2 and 3 do not wish to pursue their complaint any further, as also the Settlement arrived at between the parties, I find that no useful purpose shall be served in continuing with the proceedings of the present FIR as the chances of its success will be rather minuscule and it would create further acrimony between the parties and will be an unnecessary burden on the State exchequer.

12. Guided by the principles enunciated by the above referred judgments, 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 No1092/2014



registered at Police Station: Neb Sarai, South-District, New Delhi under Sections 308/34 of IPC and all consequential proceedings emanating therefrom against the petitioners are quashed, subject to the condition that the petitioners shall deposit costs of Rs.15,000/- each with the Delhi State Legal Services Authority within a period of two weeks from today, and 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 counselling/psychological support to the POCSO Victims requiring such assistance.

NAVIN CHAWLA, J

FEBRUARY 20, 2024/rv/ss

Click here to check corrigendum, if any