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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
(30)+ CRL.M.C. 6146/2022

EHSAN SARKAR @ E.K. SARKAR Petitioner
Through: Mr.Rajkumar, Mr.Haim Kumar,
Adv.
versus
STATE & ANR. Respondents
Through: Mr.Aman Usman, APP with
SI Sachin.
Mr.Sanyam Jain, Adv. with
respondent no.2 in person

(31) CRL.M.C. 6152/2022
SUDHIR Petitioner
Through: Mr.Sanyam Jain, Adv. with
petitioner in person.
versus
STATE & ANR. Respondents
Through: Mr.Aman Usman, APP
Mr.Rajkumar, Mr.Haim Kumar,
Adv. with respondent no.2 in
person

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER
01.03.2024

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1. These petitions have been filed under Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') seeking quashing of the Cross FIR(s), that is, FIR No.0496/2016 registered at Police Station: Seema Puri, North-East District, Delhi under Section 308 of the Indian Penal Code, 1860 (in short, 'IPC') and FIR No.0495/2016 registered at Police Station: Seema Puri, North-East District, Delhi



under Section 308 of the IPC along with all other proceedings arising therefrom, on the basis of settlement.

2. The learned counsels for the parties submit that the dispute between the parties arose out of some petty issues which led to the filing of the above-mentioned cross FIR(s).

3. The learned counsel for the parties submits that the parties, that is, petitioner and the respondent no.2 in their respective petitions have amicably settled their *inter se* disputes and have entered into a settlement vide Settlement Deed dated 02.05.2022.

4. The complainant / respondent no.2 in their respective petitions are present in person in Court today and have been duly identified by the Investigating Officer (IO), and they affirm the settlement and state that they have settled all the disputes with the petitioner in their respective petitions of their own free will and without any coercion. The respondent no.2 in their respective petitions submits that they have no objection if the present FIR(s) are quashed.

5. The learned APP, however, opposes the present petition, stating that the injuries suffered were grave in nature. He submits that in these circumstances and considering the nature of the offence involving Section 308 of the IPC, the FIRs should not be quashed merely on the basis of the settlement.

6. I have perused the contents of the FIRs and also the settlement between parties.

7. In *Narinder Singh v. State of Punjab*, (2014) 6 SCC 466, the Supreme Court has explained the principles governing the powers of the High Court to quash or not to quash the proceedings on the basis



of settlement in case of non-compoundable offence, 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.

29.6. Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. 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 proving 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. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can



examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

29.7. While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come to a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties



would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.”

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 Sections 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;”

(Emphasis Supplied)

9. In **Manoj Kumar & Ors. v. State & Anr.**, Neutral Citation No.2016:DHC:2419, a learned Single Judge of this Court has held 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. As the disputes between the parties have been amicably resolved and also looking into the nature of the allegations made in the complaint, in my opinion, no useful purpose would be served in keeping the FIR alive, as the chances of its success will be rather minuscule. In fact, it would rather create further acrimony between the parties and will be an unnecessary burden on the State exchequer.

12. Guided by the principles enunciated by the Supreme Court and of this court in 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 petitions are allowed. FIR No.0496/2016 registered at Police Station: Seema Puri, North-East District, Delhi under Section 308 of the IPC and FIR No.0495/2016 registered at Police Station: Seema Puri, North-East District, Delhi under Section 308 of the IPC and all consequential proceedings emanating therefrom against the petitioner(s) are quashed, subject to the condition that the petitioner(s) in their respective petitions shall deposit costs of Rs.25,000/- 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 utilized by the Delhi State Legal Services Authority for providing counselling/psychological support to the POCSO Victims requiring such assistance.

NAVIN CHAWLA, J

MARCH 1, 2024

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Click here to check corrigendum, if any