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

+ **CRL.M.C. 5919/2024**

DEEPAK SOLANKI

.....Petitioner

Through: Mr. Pramod Kumar Dubey, Sr. Advocate along with Mr. Ajay Kr. Pipariya, Mr. Paras Puriyani, Ms. Nikita Garg, Ms. Pinky Dubey, Mr. Prince Kumar, Ms. Amrita Vatsa, Ms. Prachi Dubey, Ms. Muskan Sharma and Mr. Ramachandrani B Siddhartha, Advocates with petitioners in person.

versus

STATE (GOVT. OF NCT OF DELHI) & ORS.Respondent

Through: Ms. Kiran Bairwa, APP for State along with SI Rajesh Kumar, PS vijay Vihar Respondents in person.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

18.12.2024

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CRL.M.A. 22628/2024 (exemption)

Exemption is allowed subject to all just exceptions.

The application stands disposed of.

CRL.M.C. 5919/2024

1. The present petition under Section 528 read with Section 359 of the BNSS has been filed on behalf of the petitioner seeking the following reliefs:-



“allow the quashing of criminal proceedings/ conviction upon compromise between the Appellant/ Applicant and the victims/ complainant/ Respondent no. 2 and 3 in a non-compoundable offences wherein the Hon’ble Trial Court. Sh. Shivaji Anand. Ld. ASJ, 04, North District, Rohini Court. Delhi was pleased to convict the Appellant/ Applicant/ applicant under section 326 IPC and acquitted the Appellant/ Applicant/ applicant under section 307 IPC and under section 25/27 Arms Act in the F.I.R. No. 318/2011 registered at P.S. Vijay Vihar in the interest of justice. Pass any other order or direction which this Hon’ble Court may deem fit and proper under the facts and circumstances of the case.”

2. Mr. Pramod Kumar Dubey, learned senior counsel for the petitioner submits that in the present case learned Additional Sessions Judge-04 (North), Rohini Courts, Delhi in Session Case No.57912/2016 arising out of FIR no.318/2011 under Section 307/323/34 IPC and 25/27 Arms Act has recorded the conviction of the present appellant along with the accused persons for the offence under Section 326/34 IPC. Vide order on sentence dated 05.11.2022 the appellant was convicted RI for three years for the offence under Section 326/34 IPC along with fine of Rs.30,000. Learned senior counsel submits that however now the appellant has entered into the settlement with the complainant and another injured Karamvir at their own free will without any fear force or coercion. Learned senior counsel submits that respondents no.2 and 3 have also filed their affidavit recording their no objection for the quashing of the present proceedings. Learned senior counsel has placed reliance upon *Anand Prakash and Ors vs. The State* 2013 SCC OnLine Del 4197, *Ramgopal and Anr. vs. The State of Madhya*



Pradesh CrI App No. 1489/2012 and ***Soban vs. State of Kerela Rep. by the Public Prosecutor, High Court of Kerela, Ernakulam*** 2021 SCC OnLine Ker 1887.

3. Learned APP for State submits that there were Seven persons who were convicted however the present petition has been filed by appellant Deepak Solanki. Learned APP has also submitted that it is a case arising out of FIR of 2011 and therefore some cost may be imposed upon the appellant.
4. I have considered the submissions. The appellant has been convicted for the offence under Section 326/34 IPC and subsequently vide order on sentence dated 05.11.2022 RI for three years was imposed. Pursuant to this CrI. Appeal No.609/2022 ***Deepak Solanki vs. State Govt. of NCT of Delhi and Anr.*** was filed which was admitted vide order dated 01.12.2022 and is pending in the category of regular matters. In ***Ramgopal and Anr. (Supra)*** vide judgment dated 29.09.2021 the Apex court after referring to ***Gian Singh vs. State of Punjab*** (2012) 10 SCC 303 and ***State of M.P. vs. Laxmi Naryan and Ors.*** (2019) 5 SCC 688 has inter alia held as under:

“11. True it is that offences which are 'non-compoundable' cannot be compounded by a criminal court in purported exercise of its powers under Section 320 Cr.P.C. Any such attempt by the court would amount to alteration, addition and modification of Section 320 Cr.P.C. which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320 Cr.P.C., which may justify its wider interpretation and include such offences in the docket of 'compoundable offences which have been consciously kept out as non-compoundable. Nevertheless, the limited jurisdiction to compound an offence within the



framework of Section 320 Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 Cr.P.C. The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482 Cr.P.C. in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.

12. The High Court, therefore, having regard to the nature of the offence and the fact that parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under Section 482 Cr.P.C., even if the offences are non-compoundable. The High Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyze the very object of the administration of criminal justice system.

13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are pre-dominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post-conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extra-ordinary power under Section 482 Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482 Cr.P.C. may lead to rigid



or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in Narinder Singh & Ors. vs. State of Punjab & Ors. and Laxmi Narayan (Supra).

14. In other words, grave or serious offences or offences which involve moral turpitude or have a harmful effect on the social and moral fabric of the society or involve matters concerning public policy, cannot be construed betwixt two individuals or groups only, for such offences have the potential to impact the society at large. Effacing abominable offences through quashing process would not only send a wrong signal to the community but may also accord an undue benefit to unscrupulous habitual or professional offenders, who can secure a 'settlement through duress, threats, social boycotts, bribes or other dubious means. It is well said that "let no guilty man escape, if it can be avoided.""

5. It is also pertinent to mention here that in the order of sentence recorded by the learned trial court the complainant victim had appeared before the court and stated convicts were his friends and except this case there was no animosity between them. The victim also stated that they have good family relations and they do not want any compensation to be imposed on the accused. This also reveals that the parties have entered into the settlement voluntarily, without any threat, force or coercion.
6. All parties are present in court and have duly been identified by the IO. The respondents no.2 and 3 state that they have no objection if the present FIR no.318/2011 under Section 307/323/34 IPC and 25/27 Arms Act and all other proceedings arising therefrom are quashed



7. Taking into account the totality of facts and circumstances of the case, this court considers that the parties have entered into an amicable settlement out of their own free will, without any fear, force or coercion and they should be given an opportunity to lead their lives peacefully. No purpose will be served in continuing with the trial.
8. In view of the above, FIR no.318/2011 under Section 307/323/34 IPC and 25/27 Arms Act at PS Vijay Vihar and all the other proceedings emanating therefrom qua petitioner are quashed.
9. The present petition along with all the pending applications stand disposed of.

DINESH KUMAR SHARMA, J

DECEMBER 18, 2024

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