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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P(CRL) 3395/2023 & CRL.M.A. 31480/2023

MOHIT GOGIA

..... Petitioner

Through: Dr. M.P. Singh, Mr.
Himanshu Bhandari, Ms.
Neelam Sharma, Advs.
with petitioner in person.

versus

STATE OF NCT OF DELHI& ANR. Respondents

Through: Mr. Y.R. Ansari, APP for
the State with SI Avinash
Kumar, PS EOW.
Mr. Prashant Vashist, Adv.
with R-2/complainant in
person.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

22.02.2024

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1. The present petition is filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 ('CrPC') seeking quashing of FIR No.169/2022 dated 16.11.2022 registered at Police Station Economic Offences Wing for offences under Sections 406/420/467/468/465/471/120B of the Indian Penal Code, 1860 ('IPC'), including all consequential proceedings emanating therefrom. The said FIR was lodged at the instance of complainant/Respondent No. 2.

2. The complainant has alleged that he was approached by the accused/ petitioner herein through a common acquaintance whereby the accused persons represented to the complainant that they have good connections with several banks and they used to purchase vehicles and properties from the banks at a very low price in the auctions. Further, the complainant has alleged that

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the accused persons even showed documents of previous purchases through auctions in order to gain confidence. It is alleged that the accused persons asked the complainant to invest either directly in their business or purchase vehicle/ property which the accused would purchase during the auction and then sell it to the other customers and when the complainant expressed his will to invest, the accused persons asked the complainant to deposit some advance amount with the accused. It is further alleged that believing the words of the accused, the complainant transferred an amount of ₹83,40,000/- from two of his companies.

3. It is averred that the total amount received by the accused has been returned to the complainant and the last instalment of ₹11,40,000/- was to be paid at the time of the hearing of the present petition.

4. The present petition has been filed on the ground that the dispute and / or differences between the petitioner and the complainant was a result of the economic slowdown pursuant to COVID-19. The matter has now been amicably resolved through the execution of a Memorandum of Understanding (MOU) dated 06.06.2023 between the parties.

5. Complainant is present in person. On being interacted, he submits that the parties were engaged in business transaction. Certain dispute arose and payments which were required to be made by the petitioner, were not made on time, which led to filing of the complaint and registration of the present FIR.

6. He submits that the misunderstanding has been resolved with the intervention of the common friends. He does not wish to pursue any proceedings arising out of the present FIR and he is satisfied with the amount which has been received from the

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respondent in terms of Memorandum of Settlement dated 06.06.2023. He states that no grievance remains with the petitioner.

7. Looking at the nature of the dispute, the same does not seem to be purely personal in nature. However, since the complainant has received his money back and has stated that he does not wish to pursue any proceeding arising out of the present FIR, this Court considers that the pendency of the proceedings arising out of present FIR would be an abuse of the process of Court.

8. The offences under Sections 420/406 of the IPC are compoundable in nature, whereas, offences under Sections 467/468/465/471 of the IPC are non-compoundable in nature.

9. It is well settled that the High Court while exercising its powers under Section 482 of the CrPC can compound offences which are non-compoundable under the Code on the ground that there is a compromise between the accused and the complainant. The Hon'ble Apex Court has laid down parameters and guidelines for High Court while accepting settlement and quashing the proceedings. In the case of **Narinder Singh &Ors. v. State of Punjab &Anr. : (2014) 6 SCC 466**, the Hon'ble Supreme Court had observed 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 32 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.”

(emphasis supplied)

10. Similarly, in the case of **Parbatbhai Aahir & Ors. v. State of Gujarat & Anr.:(2017) 9 SCC 641**, the Hon’ble Supreme Court had observed as under :-

“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.”

(emphasis supplied)

11. Keeping in view the nature of dispute and the fact that the parties have amicably entered into a settlement, this Court feels that no useful purpose would be served by keeping the dispute alive and continuance of the proceedings would amount to abuse of the process of Court. I am of the opinion that this is a fit case to exercise discretionary jurisdiction under Section 482 of the CrPC.

12. However, keeping in mind the fact that the charge sheet has already been filed in the case arising out of FIR No. 169/2022, and the State machinery has been put to motion, ends of justice would be served if the petitioner is put to cost.

13. In view of the above, FIR No. 169/2022 and all consequential proceedings arising therefrom are quashed, subject to payment of cost of ₹50,000/- by the petitioner, out of which ₹25,000/- is to be deposited with the Delhi Police Welfare Fund and ₹25,000/- is to be deposited with Delhi High Court Bar Association within a period of eight weeks. Proof of deposit of cost be submitted with the concerned SHO.

14. The present petition is allowed in the aforesaid terms.

15. Pending application stands disposed of.

AMIT MAHAJAN, J

FEBRUARY 22, 2024/“SK”

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