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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 02.02.2024*+ **CRL.M.C. 7062/2022****MOHD. WASEEM & ORS.**

..... Petitioners

Through: Mr.Hirein Sharma, Mr.Tushar Ahuja, Mr.Aniket Gupta and Mr.Vivek Kumar, Advs.

versus

THE STATE (GOVT. OF NCT OF DELHI) AND ORS.

..... Respondents

Through: Mr.Aman Usman, APP with SI Anil Kumar
R-2 to R-4 in person.**CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****NAVIN CHAWLA, J. (ORAL)**

1. 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. 1357/2015 registered at Police Station: Jamia Nagar, South-East District, Delhi under Sections 323/365/336/342/506/308/147/148/149/34 of the Indian Penal Code, 1860 (in short, 'IPC') and Sections 27/54/59 of the Arms Act, 1959 (in short, 'Arms Act'), along with all other proceedings arising therefrom, on the basis of a settlement.

2. It is the case of the prosecution that on 13.09.2015, PCR



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calls vide DD No. 83B and 84B were received at the Police Station: Jamia Nagar, Delhi. When the police reached the spot, they found four persons have been injured in the incident and have been admitted to AIIMS, Trauma Center, New Delhi for the purpose of treatment. Later, on 14.09.2015, Complainant Mohd. Khalid made a complaint stating that he had to take Rs.88,000/- from the accused Rashid and had been asking Rashid many times to pay his outstanding dues. On the day of the incident, he had called Rashid at about 7.30 PM on his mobile phone. Rashid asked him to come to Jasola Puliya, Shaheen Bagh to receive the money. When the Complainant reached there, Rashid was present there along with 20-30 persons. All the persons started beating him with iron rods, fists and blows. The other injured Shakil and Mushin tried to rescue the Complainant but the accused persons gave beating to them also. He further stated that the attackers were carrying knife, revolver, etc.. It is further stated that the accused Farzan @ Furkan also fired, because of which Shakil got injured on his arm. As there was lot of commotion, someone called the police. When the police came, with lot of effort, they could recover the Complainant. Charge-sheet has been filed against the petitioners for offence under Sections 323/365/336/342/506/308/147/148/149/34 of the IPC and Sections 27/54/59 of the Arms Act.

3. The parties have now entered into a settlement and have executed a Settlement Deed dated 14.11.2022. The Complainant as also the other injured, that is, the respondent nos. 2 to 4 are



also present in Court and have been duly identified by the Investigating Officer (IO). They state that they do not wish the criminal case to be carried any further against the petitioners. They state that the fight had occurred due to some misunderstanding between the two groups.

4. The learned counsel for the petitioners submits that as the parties have amicably settled their disputes; the injuries suffered by the respondent nos. 2 to 4 were 'Simple' in nature; it was a case of sudden fight; there has been no recovery of the alleged gun; and the petitioners are even ready to be subjected to payment of costs, the FIR be quashed by this Court exercising its powers under Section 482 of the Cr.P.C. though the petitioners have been charged with offence that are non-compoundable. In support, he places reliance on the judgment of the Supreme Court in *Narinder Singh v. State of Punjab*, (2014) 6 SCC 466; and judgments of this Court in *Manoj Kumar & Ors. v. State & Anr.* Neutral Citation no.2016:DHC:2419; and *Mahender Singh @ Sunny & Anr. v. The State & Ors.* Neutral Citation no.2021:DHC:978.

5. The learned APP for the State, on the other hand, submits that the present petition should not be allowed inasmuch as one of the accused is alleged to have fired a gun and injured one of the persons. He submits that the injury is also corroborated by the MLC of the injured. He also places reliance on the judgment of the Supreme Court in *The State of Madhya Pradesh v. Laxmi Narayan* (2019) 5 SCC 688 to submit that the offence



for which the petitioners are charged are non-compoundable and the FIR cannot be quashed looking into the seriousness of crime and its social impact. He submits that the accused persons also have previous criminal antecedents as is reflected in the Status Report.

6. I have considered the submissions made by the learned counsel for the parties.

7. In **Narinder Singh** (Supra), the Supreme Court has explained the principles governing the power of the High Court to quash or refuse to quash the proceedings on basis of a settlement in cases 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/delegate 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.”

(Emphasis Supplied)

8. In ***Laxmi Narayan*** (Supra), 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;

(Emphasis Supplied)

9. In **Manoj Kumar** (Supra), 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*** (Supra) while quashing a FIR filed under Section 308 of the IPC.

11. I have perused the contents of the FIR and also the settlement between parties. I have also interacted with the respondent nos.2 to 4 who are present in Court and have been duly identified by the IO. As noted above, they reaffirm the abovementioned settlement and state that they do not wish to pursue with the proceedings of the subject FIR and they want to be in peace with the petitioners herein.

12. It is the case of the prosecution itself that the dispute between the parties arose in relation to a monetary transaction between the complainant and the respondent no.4. The MLC reports that the nature of the injuries suffered by the complainant are ‘Simple’. This puts a doubt on the case of the prosecution that the Complainant was beaten by 20-30 persons with *dandas*. There is no gun-shot injury reported, nor the gun has been recovered. The only evidence of a gun being shot is the statement of the Complainant and the cartridge that he produced. The learned Trial Court has framed charges in the present case on 30.08.2022 and thereafter, the parties have settled their *inter se* disputes amicably. The trial is stated to be



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at the stage of prosecution evidence.

13. Though three of the six petitioners are stated to be having other criminal cases pending against them, I am of the opinion that making them face prosecution in this case only for this reason may not be in the interest of justice.

14. Keeping in view the above facts, especially the fact that the respondent nos. 2 to 4 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 it would rather create further acrimony between the parties and will be an unnecessary burden on the State exchequer.

15. Guided by the principles enunciated by the Supreme Court in its judgments in *Narinder Singh* (Supra), *Laxmi Narayan* (Supra), *Gian Singh v. State of Punjab*, (2012) 10 SCC 303; *Parbatbhai Aahir @ Parbatbhai Bhimsinbhai Karmur & Ors. v. State of Gujarat & Ors.* (2017) 9 SCC 641 and *State of Haryana & Ors. v. Bhajan Lal & Ors.* 1992 Supp (1) SCC 3, 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.

16. Accordingly, the petition is allowed. FIR No. 1357/2015 registered at Police Station: Jamia Nagar, South-East District, Delhi and all consequential proceedings emanating therefrom against the petitioners are quashed, subject to the condition that



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the petitioners shall deposit costs of Rs.50,000/- each, either jointly or severally, with the Delhi State Legal Services Authority within a period of four weeks from today, and file proof of such deposit with the Registry of this Court and also supply a copy thereof to the Investigating Officer, within the said period.

17. The costs so deposited shall be utilised by the Delhi State Legal Services Authority for providing support to the POCSO Victims requiring such assistance.

18. The petition is disposed of in the above terms.

NAVIN CHAWLA, J

FEBRUARY 2, 2024/ns/AS

Click here to check corrigendum, if any