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

+ **CRL.M.C. 7067/2022 & CRL.M.A. 27306/2022**

KELASH @ BAHWANSHU & ORS

.....Petitioners

Through: Mr. Abhinav Shokeen, Mr. Ashutosh
Gupta, Advocates with Petitioners-in-
person

versus

STATE GOVT OF NCT OF DELHI & ANRRespondents

Through: Ms. Priyanka Dalal, APP for the State
SI Sanjeet Kumar, PS Roop Nagar.
Mr. Abhishek Aggarwal, Advocate
for R-2 with R-2 in person

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

09.07.2024

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1. The present petition under Section 482 of the Code of Criminal Procedure (Cr.P.C.) has been filed by the Petitioners for quashing FIR No.194/2022 dated 12.07.2022, registered at Police Station Roop Nagar, Delhi for offences punishable under Sections 452/307/34 of IPC.

2. Material on record indicates that chargesheet has been filed against the Petitioner for offences punishable under Sections 452/307/34 of IPC. It is stated that all the Petitioners are under the age of 30 years. It is stated that a dispute was primarily arose between the Respondent No.2, who is a gym owner, and the Petitioners, who all were using the gym of the Respondent No.2, over some pending payment and a scuffle broke out between them,



during which the Respondent No.2 suffered injuries. Thus, the present FIR was lodged against the Petitioners.

3. It is stated that the Petitioners have entered into a settlement with Respondent No.2. It is stated that looking at the age of the Petitioners and the fact that the Respondent No.2 has forgiven the Petitioners. The Respondent No.2 does not have any objection to quashing of the present FIR and all proceedings emanating therefrom.

4. Learned APP for the States vehemently objects to the quashing of the present FIR by contending that the injury is grievous and danger in nature. She states that the MLC shows that the injury has been caused by sharp weapon and has been inflicted on a vestigial organ of the body which is the chest.

5. Considering the age of the Petitioners and the fact that the Respondent No.2 has entered into a settlement with the Petitioners, this Court is of the opinion that chances of conviction in the present case is remote. The Apex Court in State of M.P. v. Laxmi Narayan, (2019) 5 SCC 688 has observed as under:

“14. Now so far as the conflict between the decisions of this Court in Narinder Singh [Narinder Singh v. State of Punjab, (2014) 6 SCC 466 : (2014) 3 SCC (Cri) 54] and Shambhu Kewat [State of Rajasthan v. Shambhu Kewat, (2014) 4 SCC 149 : (2014) 4 SCC (Cri) 781] is concerned, in Shambhu Kewat [State of Rajasthan v. Shambhu Kewat, (2014) 4 SCC 149 : (2014) 4 SCC (Cri) 781] , this Court has noted the difference between the power of compounding of offences conferred on a court under Section 320 CrPC and the powers conferred under Section 482 CrPC for quashing of criminal proceedings by the High Court. In the said decision, this Court further observed that in



compounding the offences, the power of a criminal court is circumscribed by the provisions contained in Section 320 CrPC and the court is guided solely and squarely thereby, while, on the other hand, the formation of opinion by the High Court for quashing criminal proceedings or criminal complaint under Section 482 CrPC is guided by the material on record as to whether ends of justice would justify such exercise of power, although ultimate consequence may be acquittal or dismissal of indictment. However, in the subsequent decision in Narinder Singh [Narinder Singh v. State of Punjab, (2014) 6 SCC 466 : (2014) 3 SCC (Cri) 54] , the very Bench ultimately concluded in para 29 as under: (SCC pp. 482-84)

“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.”

15. *Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:*

15.1. *That the power conferred under Section 482 of the Code to quash the criminal proceedings for the*



non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2. Such power is not to be exercised in those prosecutions which involved 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;

15.3. Similarly, such power is not to be exercised for the offences under the special statutes 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;

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 [Narinder Singh v. State of Punjab, (2014) 6 SCC 466 : (2014) 3 SCC (Cri) 54] should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

15.5 [Ed.: Para 15.5 corrected vide Official Corrigendum No. F.3/Ed.B.J./22/2019 dated 3-4-2019.] . While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise, etc.”

(emphasis supplied)

6. Applying the aforesaid dictum to the facts of the present case, this Court is inclined to quash the FIR.

7. Today, the Parties are present in Court. The Petitioners have been identified by their Counsel. The Respondent No.2 has been identified by his



Counsel and the Investigating Officer SI Sanjeet Kumar, PS Roop Nagar. The Respondent No.2 states that he has settled all the disputes with the Petitioners out of his own free will, without pressure, coercion or undue influence and states that he does not want to pursue the present case any further and requests that the present FIR and the proceedings emanating therefrom may be quashed. The parties undertake that they will remain bound by the proceedings recorded before this Court.

8. The Parties who are present in Court today understand the implication of the present proceedings. In view of the settlement arrived at between the Parties, this Court is of the opinion that no useful purpose would be served in continuing with the present proceedings and continuation of the present proceedings will only aggravate the bad blood between the Parties. Resultantly, the FIR No.194/2022 dated 12.07.2022, registered at Police Station Roop Nagar, Delhi for offences punishable under Sections 452/307/34 of IPC and the proceedings emanating therefrom are hereby quashed.

9. In order to ensure that Petitioners do not indulge in further acts of violence in future, the Petitioners are directed to perform social service for one month. Accordingly, the Petitioners No.1 to 3 are directed to do community service at Lok Nayak Jai Prakash Hospital, Delhi for a period of one month i.e. from 15.07.2024 to 15.08.2024 between 09:00 AM and 05:00 PM. The Petitioners No.1 to 3 shall report to the Medical Superintendent, Lok Nayak Jai Prakash Hospital on 15.07.2024. The Petitioners No.4 to 6 are directed to do community service at Safdarjung Hospital, New Delhi for a period of one month i.e. from 15.07.2024 to 15.08.2024 between 09:00 AM and 05:00 PM. The Petitioner Nos.4 to 6 shall report to the Medical



Superintendent, Safdarjung Hospital, New Delhi on 15.07.2024.

10. After completion of one month, a certificate from the Medical Superintendent, Lok Nayak Jai Prakash Hospital and Medical Superintendent, Safdarjung Hospital, New Delhi, be also filed to show compliance of the Order. In case of any absenteeism/default or any misbehaviour on the part of the Petitioners, the same shall be conveyed immediately by the Medical Superintendents to the concerned SHO, who shall inform the learned ASC for the State, for bringing the same to the notice of the Court and for seeking recall of the Order passed today.

11. This Court is also inclined to impose costs upon the Petitioners so that the Petitioners do not repeat such kind of activities in future. Accordingly, all the Petitioners are directed to pay a sum of Rs.20,000/- each to be deposited with the "*Armed Forces Battle Casualties Welfare Fund*" within three weeks from today. Copies of the receipts be also filed with the Registry of this Court to show compliance of the Order.

12. With the above directions, the petition is disposed of, along with pending application(s), if any.

13. A copy of this order be transmitted to Medical Superintendent, Lok Nayak Jai Prakash Hospital, New Delhi and Medical Superintendent, Safdarjung Hospital, New Delhi.

SUBRAMONIUM PRASAD, J

JULY 9, 2024

S. Zakir