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

+ **CRL.M.C. 6274/2024 & CRL.M.A. 24021/2024**

REJIMON JOSE

.....Petitioner

Through: Mr. Ashwin Vaish, Mr. V. Thomas,
Mr. Rajat Pahwa and Mr. Rohan Nair,
Advocates.

versus

STATE OF NCT OF DELHI AND ANR.

.....Respondents

Through: Mr. Aman Usman, APP for the State.
SI Robin Khatana, ASI Satyapal, PS
Moti Nagar

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

02.09.2024

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1. The Petitioner has approached this Court for quashing FIR No. 486/2019 dated 31.10.2019 registered at Police Station Moti Nagar for offences under Section 409 IPC.
2. The case against the Petitioner is that when he was working as a Supervisor in a Branch Office situated in Bali Nagar, New Delhi, certain packets of gold ornaments which had been entrusted by the customers of Respondent No.2 went missing.
3. It is stated that the packets of the gold ornaments had been made good by the Petitioner to the company. A settlement has been entered into and an affidavit has been filed by the Authorized Representative of Respondent No.2 and the same reads as under:-

*“I, Sunil Barthwal, Son of Late Shri J.P. Barthwal,
Authorized Representative of Muthoot Finance*



Limited, having its Corporate Office (North) at MG George Muthoot Towers, Alaknanda, New Delhi-110019, do hereby solemnly affirm and state on oath as under:

1. That I am the Authorized Representative of Muthoot Finance Ltd., the Respondent No. 2 Company and authorized to represent the Respondent No.2 in the accompanying Petition and as such conversant with the facts and circumstances of the case and thus competent to swear the present affidavit.

2. The contents of the accompanying petition for quashing FIR No. 486/2019 dated 31.10.2019 Police Station Moti Nagar under Section 409, 424 IPC & proceedings arising therefrom pending with the Court of Learned Judicial Magistrate First Class-04, West District, Tis Hazari Courts, Delhi in case bearing Cr. Cases/12239/2021, titled State Vs. Rejimon Jose. has been read over and understood by me.

3. I say that, without prejudice to its rights and contentions as well as further without prejudice to the contents of its complaint made to the police and/or of the subject FIR, the Complainant (Respondent No.2 herein) Mis. Muthoot Finance Limited has no objection if this Hon'ble Court is pleased to quash the aforesaid FIR and/or the proceedings emanating therefrom on account of settlement of the dues/loss amount."

4. The AR of Respondent No.2 is present in Court today. There is also an Authorization Letter given in favour of the AR of the company, which reads as under:-

"I, Mukesh Khare, Sr. Deputy General Manager, Muthoot Finance Limited, Corporate Office (orth) at M.G. George Muthoot Towers, Alaknanda, New Delhi-110019 (Company`), do hereby authorize Mr. Sunil



Barthwal, Senior Chief Manager (Employee ID-DM00185) and Authorized Representative, to represent the Company in Crl. M.C.6274 of 2024, titled as Rejimon Jose Ts. State and another, pending before the Hon'ble High Court of Delhi at New Delhi.

He is further authorized to give statement No Objection in the afore-referred petition for quashing of FIR No. 486/2019, dated 31.10.2019, PS-Moti Nagar and to do all other acts deeds or things, as may be necessary for any of the above purposes, for and on behalf of the Company. He is further authorized to engage and appoint Advocates Vakils, Solicitors, pleaders etc. as the case may be, and to sign Vakalatnamas, other documents and to do all other acts, deeds or things, as may be necessary or proper for all or any of the above purposes and to effectively discharge the duties casted upon him. Validity of the present Authorization Letter is restricted to the period till 31.12.2024 and /or till revocation of the same and/or till cessation of the employment of the above employee, whichever is earlier. The authorization is extendable upon the nature of the case and circumstances. Dated this 1 day of August, 2024”

5. The effect of the letter is that Respondent No.2 has decided not to actively proceed against the Petitioner.
6. Learned APP for the State vehemently opposes the settlement contending that this is an offence which ought not to be settled because (a) it is a serious offence involving punishment of life imprisonment; (b) that Respondent No.2 which is an NBFC, cannot enter into such settlement. Learned APP for the State submits that other than the company, they also have independent evidence to proceed against the Petitioner.
7. The Apex Court in State of M.P. v. Laxmi Narayan, **2019 (5) SCC**



688 has laid down the parameters for quashing offences while exercising power under Section 482 CrPC. Paragraph 15 of the said judgment reads as under:-

“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.”

8. In view of the fact that charges have yet not been framed and the matter is at an initial stage and the fact that the losses of the financial company have been made good by the Petitioner and in lieu of the affidavit filed by Respondent No.2 in this Court, this Court is inclined to quash the FIR.

9. Resultantly, FIR No. 486/2019 dated 31.10.2019 registered at Police Station Moti Nagar for offences under Section 409 IPC and the proceedings emanating therefrom are hereby quashed.

10. The petition is disposed of along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

SEPTEMBER 2, 2024

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