



\$~79

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 6319/2024**
SUBHAM & ORS.Petitioners

Through: Mr. Rajeev Sirohi, Mr.
Jahangir Ahmad, Mr.
Puneet Narula, Ms. Neha
& Mr. Shams Tabrez,
Adv. with all the six
petitioners in person.

versus

STATE NCT OF DELHI AND ANRRespondents
Through: Ms. Kiran Bairwa, APP
for the State.
R-2 in person.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **14.08.2024**
CRL.M.A. 24164/2024 (exemption)

1. Exemptions allowed, subject to all just exceptions.
2. The application stands disposed of.

CRL.M.C. 6319/2024 & CRL.M.A. 24163/2024

3. The present petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') seeking quashing of Complaint Case No.389/2022, pending before the learned Metropolitan Magistrate, Dwarka Courts, New Delhi.

4. It is alleged that on 21.03.2019 at around 5:30 P.M Respondent No. 2 along with his family member went to meet his old ailing mother at Village Daurala, P.O. Rawta, New Delhi, where Harish along with Subham, Jatin and 3 – 4 persons having lathis and baseball stick without any sort of provocation trespassed the house of complainant's parents and abused his family members. The complainant in order to save himself from the sudden attack bend down which caused injury to another

CRL.M.C. 6319/2024

Page 1 of 6



assailant – Jatin. The assailants in order to outrage the modesty of the female members of the complainant pushed and manhandled them.

5. By order dated 14.11.2022, the learned MM summoned accused – Harish for offences punishable under Sections 454/324/341/149/427/506(II) of the IPC; accused persons Jatin and Shubham were summoned for offences punishable under Section 454/324/341/149 of the IPC and accused persons Hitesh, Himanshu and Upender were summoned for offences punishable under Sections 323/341/149 of the IPC.

6. It is submitted that Petitioner No. 1 Shubham also lodged an FIR bearing No.42/2019 under Section 325/34 of the IPC at PS Jaffarpur Kalan against Respondent No. 2 and others. Charge sheet was filed in that case.

7. The learned counsel for the petitioners submits that the petitioners and Respondent No. 2 are related to each other and also belong to the same village. He submits that the disputes between the parties arose due to a petty misunderstanding.

8. He submits that the parties have amicably resolved the misunderstandings and have decided to maintain healthy relations in future.

9. The present petition is filed on the ground that the matter is amicably settled between the parties by way of Memorandum of Settlement dated 06.08.2024 on their own free will, without any fear, force, coercion or undue influence. In terms of the settlement, the parties have decided to withdraw all cases instituted by them against each other.

10. It is stated that pursuant to the settlement, both the parties have also filed quashing petitions for quashing of both the cases bearing FIR No.42/2019 and present complaint case.

CRL.M.C. 6319/2024

Page 2 of 6



11. The petitioners and Respondent No. 2 are present in person in the Court and they have been identified by their respective counsel.

12. The Respondent No. 2, on being asked, states that the parties are related to each other. He submits that he does not wish to pursue any proceedings arising out of the present complaint and has no objection if the proceedings arising out of the present complaint are quashed.

13. Offences under Sections 341/427/506(II) of the IPC are compoundable, whereas offences under Sections 149/454/324/467/471 of the IPC are non-compoundable.

14. It is well settled that the High Court while exercising its powers under Section 528 of the BNSS (*erstwhile* Section 482 of the CrPC) can quash offences which are non-compoundable 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. The Hon'ble Apex Court in the case of ***Gian Singh v. State of Punjab : (2012) 10 SCC 303*** had held as under:

*“61. The position that emerges from the above discussion can be summarised thus : the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz. : (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court. **In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like***



murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. **But the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim.** In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

(emphasis supplied)

15. 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)

16. It is stated that the dispute between the parties arose due to a misunderstanding. Respondent No.2 has also stated before this Court that he does not wish to pursue the present complaint and that the parties are related to each other. Keeping in view the nature of dispute and 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 528 of the BNSS.

17. In view of the above, Ct. Case No. No.389/2022 and all consequential proceedings arising therefrom are quashed, subject to the payment of cost of ₹10,000/- by the petitioners, to be deposited with Chhatravas Chandra Arya Vidya Mandir, Des Raj Campus, C Block, East of Kailash, New Delhi, within a period of eight weeks.

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

AMIT MAHAJAN, J

AUGUST 14, 2024 / “SK”

CRL.M.C. 6319/2024

Page 6 of 6