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

+ **CRL.M.C. 6332/2024 & CRL.M.A. 24208/2024**

DEEPAK GUPTA & ORS.Petitioner
Through: Mr. Rajeev Singh Chauhan
& Mr. Amit Sharma,
Advocates alongwith All
Petitioners-in-Person.

versus

STATE OF NCT OF DELHI & ORS.Respondents
Through: Mr. Raj Kumar, APP for the
State.
Inspector Rakesh Kumar
(P.S. DIU/North).
Mr. Rohit Nain & Mr.
Balvinder Singh, Advocates
for Respondent Nos.2 & 3.
Mr. Shahid Hussain Shah
(Authorized Representative
of Respondent Nos.2 &
3-in-Person.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **14.08.2024**

CRL.M.A. 24209/2024 (exemption from filing certified copies of annexures)

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

CRL.M.C. 6332/2024

1. The present petition is filed seeking quashing of FIR No.58/2022 dated 17.01.2022, registered at Police Station Sadar Bazar, for offences under Section 63 of the Copyright Act, 1957 and Sections 103/104 of the Trade Marks Act, 1999, including all consequential proceedings emanating therefrom. Chargesheet has

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been filed in the present case.

2. The FIR was registered on a complaint given by the complainant, namely, Mr. Shahid Hussain Shah (who was the authorised representative and signatory of Respondent No. 2 [Disney Enterprises Inc. ('DEI')] and Respondent No.3 (Marvel Characters Inc.) (hereafter '**complainant company**') at that time.

3. It is alleged that some unscrupulous persons were indulging in an unauthorized activity by using DEI materials, and further indulged in selling, distributing, trading, stocking as well as making inferior quality of DEI goods in order to deceive the customers into buying their inferior quality goods. It is alleged that the same was causing severe losses to the complainant company in terms of money, goodwill, and reputation. This led to the registration of the present FIR.

4. The present petition has been filed on the ground that the parties have amicably settled their disputes, on their own free will, without any coercion, influence or pressure and a Compromise Deed dated 10.05.2024 has been signed by the parties to that effect.

5. It is stated that the Settlement Agreement was signed by Mr. Shahid Hussain Shah, who is the authorised representative of the complainant company.

6. The learned counsel for the Respondent Nos.2 & 3/complainant submits that the Special Power of Attorney dated 17.10.2020, whereby Mr. Shahid Hussain Shah has been duly authorised to represent the complainant company, is also annexed with the present petition.

7. The petitioners and Mr. Shahid Hussain Shah are present in person and have been duly identified by the Investigating Officer.



8. Mr. Shahid Hussain Shah, being asked, submits that the matter has been amicably resolved. He affirms that the parties have settled their disputes and a total amount of ₹1,65,000/- has been received by the complainant company in the following manner:-

- a. An amount of ₹55,000/- by way of Demand Draft bearing no.516986 dated 13.08.2024, drawn on ICICI Bank;
- b. An amount of ₹55,000/- by way of Demand Draft bearing no.516985 dated 12.08.2024, drawn on ICICI Bank and;
- c. An amount of ₹55,000/- by way of Demand Draft bearing no.501358 dated 03.07.2024 drawn on ICICI Bank.

9. He submits that the complainant company does not wish to pursue the proceedings arising out of the present FIR and has no objection if the same is quashed.

10. Offences under Section 63 of the Copyright Act, 1957 and Sections 103/104 of the Trade Marks Act, 1999 are non-compoundable.

11. 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 **Narinder Singh & Ors. v. State of Punjab & Anr. : (2014) 6 SCC 466**, the Hon'ble Apex Court has 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 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 while 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)

12. Similarly, in ***Parbatbhai Aahir & Ors v. State of Gujarat & Anr.***: (2017) 9 SCC 641, the Hon’ble Apex Court has 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)

13. Keeping in view the aforesaid principle and 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 continuation of the proceedings would be an abuse of process of law. In the opinion of the Court, it is a fit case where discretionary jurisdiction under Section 482 of the CrPC can be exercised and the proceedings are quashed.

14. In view of the above, FIR No. 58/2022 and all consequential proceedings arising therefrom are quashed.

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

16. All pending application(s) also stand disposed of.

AMIT MAHAJAN, J

AUGUST 14, 2024

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