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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 6774/2024**

MUKESH KUMAR

.....Petitioner

Through: Mr. Vijay Sansawal, Adv.
along with petitioner.

versus

THE STATE OF NCT OF DELHI AND ORS.

.....Respondents

Through: Mr. Manoj Pant, APP for
the State.
SI Naresh Kumar, Sec-
II/EOW Mandir Marg.
R-2 in person.
Mr. Parnav Gupta, Adv.
through V.C for R-3.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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20.12.2024

1. The present petition is filed seeking quashing of FIR No. 150/2008 dated 01.09.2008 for offences under Sections 103/104 Trade and Merchandise Marks Act, 1958, Section 63 of Copy Right Act, 1954 read with Section 420 of Indian Penal Code, 1860 ('IPC') registered at Police Station Economic Offences Wing, including all consequential proceedings emanating therefrom.

2. The FIR was registered on a complaint given by Mr. Nirmal Singh (who was the authorised representative of Respondent No.2 at that time) on behalf of Respondent No. 2/ M/s. St. Ives Laboratories Inc. (hereafter '**complainant company**') alleging infringement of the mark – St. Ives. Chargesheet has been filed in the present case.

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3. The learned counsel for the parties submit that the mark – St Ives of the Respondent No. 2 has been licensed by the Unilever PLC to Respondent No. 3 which carries out the business of Respondent No. 2 in India. Therefore, Respondent No. 3 does not wish to proceed with the matter anymore.

4. He further states that since all the disputes have amicably been settled between Respondent Nos. 2 & 3 and petitioner, the Respondent Nos. 2 & 3 do not wish to pursue the complaint any further qua the petitioner.

5. The present petition has been filed on the ground that the parties have amicably settled their dispute, on their own free will, without any coercion, influence or pressure and has been signed by the parties to that effect.

6. Respondent No. 2 & 3 have filed their respective affidavits deposing that they have no objections if the present FIR is quashed against the petitioner.

7. The petitioner and Respondent No. 2 are present in person in the Court and Respondent No. 3 has appeared through video conferencing. They have been duly identified by the Investigating Officer.

8. Respondent Nos. 2 & 3, on being asked, submit that the matter has been amicably resolved. They affirm that the parties have settled the dispute. They submit that the complainant company does not wish to pursue the proceedings arising out of the present FIR and have no objection if the same is quashed.

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

10. It is well settled that the High Court while exercising its powers under Section 528 of the Bharatiya Nagarik Suraksha



Sanhita, 2023 ('BNSS') [ers ~~smk~~] Section 482 of the Code of Criminal Procedure, 1973] can quash 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 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.”

(emphasis supplied)

11. 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 ~~not~~ 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)

12. 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.

13. However, considering the fact that the chargesheet has been filed and State Machinery was put into motion, ends of justice would be met, if the petitioner is put to cost.

14. In view of the above, FIR No. 150/2008 and all consequential proceedings arising therefrom are quashed, subject to payment of a cost of ₹10,000/- by the petitioner, to be deposited with the Delhi Police Welfare Fund, within a period of eight weeks.

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

AMIT MAHAJAN, J

DECEMBER 20, 2024

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