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

+ **CRL.M.C. 6997/2024 & CRL.M.A. 26714/2024**

IKHLAK & ORS.

.....Petitioners

Through: Mr. Gautam Khazanchi,
Mr. Vinayak Chawla and
Ms. Pooja Deepak, Advs.
P-2 and P-3 in person.
P-1 (through VC).

versus

STATE OF NCT DELHI & ANR.

.....Respondents

Through: Mr. Rajkumar, APP for the
State with SI Amit
Krishna, PS Gokal Puri.
R-2 in person.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

05.09.2024

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1. The present petition is filed seeking quashing of FIR No. 589/2016 dated 26.11.2016, registered at Police Station Gokal Puri, for offences under Sections 323/354/354B/506 of the Indian Penal Code, 1860 ('IPC'). The FIR was registered on a complaint made by Respondent No. 2.

2. Chargesheet has been filed in the present case against all the petitioners and one person, namely, Shamshad for the offences under Sections 354/354B/506/34 of the IPC. It is stated that the accused Shamshad has expired during the pendency of the proceedings arising out of the present FIR.

3. Is averred that the petitioners and Respondent No.2 are related to each other who had a falling out due to some family dispute. It is alleged that the petitioners came to the house of Respondent No.2 and abused her and her family members using

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vile language. It is alleged that when Respondent No.2 asked them to refrain from using abusive language, they misbehaved with her. It is also alleged that the petitioners also slapped the sister-in-law of Respondent No.2 when she tried to intervene. It is alleged that the petitioners also threatened Respondent No.2. The incident led to the registration of the present FIR.

4. The learned counsel for the petitioners submits that the parties are closely related to each other and the altercation took place due to certain property dispute between the parties.

5. He submits that the petitioners have tendered an unconditional apology for their behaviour and the parties have decided to move on in life.

6. He submits that a cross-FIR, that is, being FIR No. 558/2016, was also registered at the instance of the petitioners. He submits that the parties have agreed that the petition in regard to quashing of the said FIR will also be filed.

7. The present petition is filed on the ground that the parties, with the intervention of elders and friends, have settled their disputes and have also executed a Memorandum of Understanding dated 02.11.2023 to this effect, on their own free will, without any coercion, undue influence, pressure or threat.

8. Petitioner Nos. 2 and 3 and Respondent No.2 are present in person in Court. Petitioner No. 1 has joined the proceedings through video conference. The parties have been duly identified by the Investigating Officer.

9. Respondent No.2, on being asked, states that she is satisfied with the apology tendered by the petitioners. She states that she does not wish to pursue any proceeding arising out of the present FIR and she has no objection if the same is quashed.



10. Offence under Sections 506 of the IPC is compoundable whereas offences under Sections 354/354B of the IPC are non-compoundable.

11. It is well settled that the High Court while exercising its powers under Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023 ('BNSS') (*erstwhile* Section 482 of the Code of Criminal Procedure, 1973) can compound 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. In the case of ***Narinder Singh & Ors. v. State of Punjab & Anr. : (2014) 6 SCC 466***, the Hon'ble Supreme Court had 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)

12. 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)



13. In the present case, Respondent No.2 has stated that she has no remaining grievance against the petitioner and that she is satisfied with the petitioner's unconditional apology. In the peculiar circumstances of this case, it is unlikely that the present FIR will result in a conviction when Respondent No.2 does not wish to pursue the case. The parties are related to each other. It is also pointed out that a cross-FIR was registered regarding the incident and the altercation was a result of a prior property dispute between the parties. In such circumstances, continuance of the proceedings would only cause harassment and heart burn amongst the parties.

14. Keeping in view the nature of dispute and the fact that the parties have amicably settled the dispute, 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 considered opinion that it is a fit case to exercise discretionary jurisdiction under Section 528 of the BNSS.

15. However, keeping in mind the fact that the charge sheet has already been filed in the case arising out of the present FIR, and the State machinery has been put to motion, ends of justice would be served if the petitioners are put to cost.

16. In view of the above, FIR No. 589/2016 and all consequential proceedings arising therefrom are quashed, subject to payment of cost of ₹5,000/- by each petitioner, to be deposited with the Delhi Police Welfare Society, within a period of eight weeks from date.

17. Proof of deposit of cost shall be furnished to the concerned



SHO.

18. The petition is allowed in aforesaid terms. Pending application(s) also stand disposed of.

AMIT MAHAJAN, J

SEPTEMBER 5, 2024

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