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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.M.C. 7323/2024

PRADEEP KUMAR AGGARWALPetitioner
Through: Ms. Priyanka Singh, Mr.
Shubham Singh and Mr.
Md. Faisal Khan, Advs.
Petitioner in person.

versus

THE STATE OF NCT OF DELHI
AND ORS.Respondents
Through: Mr.Naresh Kumar Chahar,
APP for the State with SI
Sudhanshu Singh, PS
Seelampur.
R-2 in person.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
23.09.2024

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CRL.M.A. 27934/2024 (exemption from filing certified copies of annexures)

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

CRL.M.C. 7323/2024 & CRL.M.A. 27933/2024 (stay)

3. The present petition is filed seeking quashing of FIR No. 416/2021 dated 12.11.2021, registered at Police Station Seelampur, for offences under Sections 420/ 406/ 466/ 467/ 471/ 120B/ 34 of the Indian Penal Code, 1860 ('IPC').
4. It is alleged that on 10.05.2019 Respondent No. 5, who is a far relative of the complainant, informed the complainant that



adjacent to his tenanted house. One property bearing No. 291, Welcome Double Storey, Seelampur-III, Delhi-110053, was ready for sale on very cheap rate and approached the complainant to purchase the same. On 15.05.2019, the complainant along with the petitioner and Respondent Nos. 3 to 5, met for the above said purpose and a deal was done between the complainant and the owner of the aforementioned property. The total price of the property was ₹26 Lacs, out of which ₹5 Lacs were given by the complainant by way of a cheque and remaining ₹21 Lacs were given in cash.

5. It is alleged that at the time of purchase of the aforementioned property, the petitioner and Respondent Nos. 3 to 5, assured the complainant that the property was free from all sorts of encumbrances such as sale, mortgage, gift, lease, decree etc. and the concerned papers of the sale property were executed.

6. It is further alleged that on 06.08.2021, it came to the knowledge of the complainant that a notice was issued by the Delhi Urban Shelter Improvement Board, Govt. of NCT of Delhi, I.P. Estate, ITO, New Delhi to the accused persons, whereby it was mentioned that vide judgment dated 20.11.2018 passed by the learned Additional Sessions Judge, Karkardooma Courts, Delhi in CS No. 12/16, the aforementioned property is a government land which belongs to the Govt. of NCT of Delhi. Directions were given to the Director, DUSIB to take appropriate action. A Show Cause Notice dated 06.08.2021 was issued to the complainant. On 25.08.2021, the officials of DUSIB vacated the aforementioned property from the complainant and sealed the same. This led to the registration of the present FIR against the petitioner and Respondent Nos. 3 to 5.



7. The present petition is filed on the ground that the petitioner and the complainant have settled all their disputes by way of Settlement Agreement dated 02.09.2024, on their own free will, without any force, coercion or undue influence.

8. As per the settlement agreement, it is agreed that the petitioner shall pay a total sum of ₹25,00,000/- to Respondent No. 2 as full and final settlement of all the claims of Respondent No. 2 against the petitioner.

9. The petitioner and Respondent No. 2 are present in Court today and have been duly identified by the Investigating Officer.

10. Demand draft for a sum of ₹5,00,000/- dated 09.09.2024, drawn on Axis Bank Ltd. has been handed over to the complainant in Court today.

11. The complainant has also handed the title deeds of the property bearing No. 291, Welcome Double Storey, Seelampur-III, Delhi-110053 to the petitioner in Court today.

12. The complainant also undertakes that civil suit filed by the complainant against the petitioner, being Civil Suit No. 235/2024 pending before the Court of learned ADJ-02, North-East, Karkardooma Courts, Delhi, will be withdrawn on the next date of hearing.

13. The complainant is bound down to the said undertaking.

14. Petitioner and Respondent No. 2 submit that a sum of ₹20,00,000/- deposited before this Court pursuant to order dated 18.07.2024 in Bail Application No. 2197/2024, can be released in favour of the complainant.

15. The Registry is directed to forthwith release the sum of ₹20,00,000/- deposited pursuant to the order dated 18.07.2024 in



Bail Application No. 2197/2024 in favour of the complainant, namely, Ashok Kumar, on the strength of the present order.

16. On being asked, Respondent No.2/complainant states that he does not wish to pursue the proceedings arising out of the present FIR against the petitioner.

17. Offences under Sections 420/406 of the IPC are compoundable whereas offences under Sections 466/467/471 of the IPC are non-compoundable.

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



19. Similarly, in the case of ***Parbatbhai Aahir & Ors. v. State of Gujarat & Anr. : (2017) 9 SCC 641***, the Hon'ble Apex 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)



20. Keeping in view the nature of the 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.

21. In view of the above, FIR No. 416/2021 and all consequential proceedings arising therefrom are quashed *qua* the present petitioner and the petitioner is discharged from the present FIR.

22. The present petition is disposed of in the aforesaid terms.

AMIT MAHAJAN, J

SEPTEMBER 23, 2024

‘KD’