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

+ **CRL.M.C. 7492/2024**

SAPAN AND OTHERS

.....Petitioners

Through: Ms. Apoorva Thakral, Ms.
Antika Gulliya, Mr. C.P.
Singh and Mr. Mahipal,
Adv.
All the petitioners in
person.

versus

THE STATE OF NCT OF DELHI
AND ANR.

.....Respondents

Through: Mr.Naresh Kumar Chahar,
APP for the State with
W/SI Parul, PS Shastri
Park.
R-2 / complainant in
person.

+ **CRL.M.C. 7503/2024**

HALIM AHMAD AND OTHERS

.....Petitioners

Through: Mr. Nitin, Mr. Vijay, Mr.
Gulshan Khatun and Mr.
Ravindra Kumar, Adv.
All the petitioners in
person.

versus

THE STATE NCT OF DELHI AND ANR.....Respondents

Through: Mr.Naresh Kumar Chahar,
APP for the State with
W/SI Parul, PS Shastri
Park.
Ms. Apoorva Thakral, Ms.
Antika Gulliya, Mr. C.P.
Singh and Mr. Mahipal,
Adv. for R-2.
R-2 / complainant in
person.



CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

29.11.2024

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1. The present petitions are filed seeking quashing of cross-FIRs being FIR No. 303/2021 for offences under Sections 354B/323/509/34 of the Indian Penal Code, 1860 ('IPC') and Section 12 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO') and FIR No. 302/2021 for offences under Sections 354/323/506/509/34 of the IPC and Section 12 of the POCSO, both dated 18.06.2021, registered at Police Station Shastri Park, including all consequential proceedings arising therefrom.

2. The charge sheets have already been filed in these cases.

3. It is averred that the parties are known to each other. It is alleged that due to certain miscommunication and misunderstandings, the situation escalated when the female members also got involved and a scuffle broke out between the parties. The incident led to the lodging of the aforementioned FIRs.

4. The learned counsel for the parties submit that certain altercation took place between the parties due to petty issues pursuant to which the women in the families also got involved.

5. They submit that the parties have decided to bury their disputes and live in peace and harmony. They submit that the parties have also unconditionally apologised to each other for their behaviour.

6. The present petitions are filed on the ground that the matters are amicably settled between the parties by way of the



Settlement Deed dated 20.08.2024, of their own free will, without any pressure, force, fraud, coercion or undue influence.

7. The parties are present in person in Court today and have been duly identified by the Investigating Officer.

8. The complainant in FIR No. 302/2021 is now 19 years of age. On being asked, she states that she does not wish to pursue the proceedings arising out of FIR No.302/2021.

9. The complainant in FIR No. 303/2021 is 15 years of age. The complainant is minor and appears through her parents. Her parents wish to settle the disputes and have no objection if the proceedings arising out of FIR No. 303/2021 are quashed.

10. Offences under Sections 323/506/509 of the IPC are compoundable in nature whereas offences under Sections 354/354B of the IPC and Section 12 of the POCSO are non-compoundable in nature.

11. In ***State of Haryana v. Bhajan Lal*** : 1992 Supp (1) SCC 335, the Hon'ble Apex Court has laid down the test to discern when quashing is appropriate in exercise of the discretion under Section 482 of the CrPC. The relevant portion of the said judgment is reproduced hereunder:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly



defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or



where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

(emphasis supplied)

12. 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. 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)

13. It is not in doubt that the offences under Sections 354/354B of the IPC and Section 12 of the POCSO Act are heinous in nature and involve mental depravity. Offences of such nature cannot be quashed merely because the victim has settled the dispute. Such offences, in true sense, cannot be said to be offences *in personam* as the same are crimes against the society.

14. However, it is relevant to note that in the present case, the respective complainants and aggrieved victims have stated that they do not want to proceed with the complaints and they have also stated that the cross FIRs were registered on a misunderstanding.

15. It is stated that the parties are illiterate and due to some wrong advice, they lodged FIRs against each other. The parties belong to poor strata of society and are residents of the same locality.



16. The parties are acquaintances and have decided to live peacefully in future. In the peculiar circumstances of this case, it is unlikely that the present cross-FIRs will result in a conviction when the complainants do not wish to pursue the case.

17. Keeping in view the aforesaid facts, this Court feels that 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.

18. In view of the above, FIR No. 303/2021 and FIR No. 302/2021 and all consequential proceedings arising therefrom are quashed.

19. The present petitions are allowed in the aforesaid terms.

20. A copy of the order be placed in both the matters.

AMIT MAHAJAN, J

NOVEMBER 29, 2024

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