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

\+ **CRL.M.C. 7688/2024**

RUCHI VERMA .....Petitioner

Through: Mr. Manish Sahni & Mr. Jawahar Narang, Advs. with petitioner in person

versus

SANTOSH AGGARWAL .....Respondent

Through: Ms. Vasudha Bajaj & Mr. Pradeep Kumar Panchal, Advs. for complainant with complainant in person

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

O R D E R

% 22.11.2024

CRL.M.A. 29337/2024 *(for exemption)*

1. Exemptions allowed, subject to all just exceptions.

2. The application stands disposed of.

CRL.M.C. 7688/2024

3. The present petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking quashing of Criminal Complaint No. 465496/2016, pending before the learned Metropolitan Magistrate, South Districts, Saket Courts, Delhi.

4. The complaint was filed by the respondent/complainant under Sections 394/326/323/325/506/120B/34 of the Indian Penal Code, 1860 ('**IPC**').

5. It is alleged that the petitioner along with two other co-accused persons (since deceased and proceedings have been abated against them), in furtherance of their common intention

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robbed the complainant and caused grievous hurt to him by beating him.

6. The present petition is filed on the ground that the matter is amicably settled between the parties before the Mediation Centre, Saket Courts, New Delhi by way of Settlement Agreement dated 29.01.2024 on their own free will, without any fear, force, coercion or undue influence. In terms of the settlement, the parties have decided to make necessary statements before the concerned Court for quashing of FIR and shall withdraw the present complaint.

7. In terms of the settlement dated 29.01.2024, a sum of ₹2,50,000/- lakhs is handed over to the complainant in Court today by way of a Demand Draft No. 253730 dated 16.12.2024 drawn on Punjab National Bank.

8. The parties are present in person in Court today. The parties have been identified by their respective counsel.

9. On being asked, the complainant states that he does not wish to pursue any proceedings arising out of the complaint. He further submits that he does not have any objection if the proceedings are quashed.

10. Offences under Sections 394/326 of the IPC are non-compoundable and offences under Sections 323/325/506 of the IPC are compoundable in nature.

11. 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 CrPC) can quash 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

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quashing the proceedings. The Hon'ble Apex Court in the case of ***Gian Singh v. State of Punjab*** **: (2012) 10 SCC 303** had held as under:

> "***61.*** *The position that emerges from the above discussion can be summarised thus : the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz. : (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court.* ***In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime****. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences.* ***But the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim.*** *In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise*

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between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

(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*

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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. It is stated that the dispute between the parties was has been amicably settled and proceedings *qua* accused Narender and Mangeram have already been abated by orders dated 02.05.2016 and 07.05.2018 respectively. The respondent has also stated before this Court that he does not wish to pursue the present complaint. Keeping in view the nature of dispute and that the parties have amicably entered into a settlement, this Court feels

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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.

14. In view of the above, the Criminal Complaint Case No. 465496/2016 is quashed.

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

AMIT MAHAJAN, J

NOVEMBER 22, 2024
"SS"

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