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

+ **CRL.M.C. 2264/2024**

PRADEEP KUMAR AND OTHERS

..... Petitioners

Through: Mr. Rajesh Tanwar, Advocate with
Petitioners in person.

versus

THE STATE NCT OF DELHI & ANR.

..... Respondents

Through: Mr. Yudhvir Singh Chauhan, APP
with SI Mukesh, PS: Preet Vihar, for
State.
Mr. Bharat Singh, Advocate for and
along with Respondent No.2 in
person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

20.03.2024

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CRL.M.A. 8770/2024 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CRL.M.A. 8771/2024 (condonation of delay in re-filing)

3. This is an application filed by the Petitioners for condonation of delay of 55 days in re-filing the petition.
4. For the reasons stated in the application, the same is allowed and the delay of 55 days in re-filing the petition is condoned.
5. Application stands disposed of.



CRL.M.C. 2264/2024

6. This petition has been filed on behalf of the Petitioners under Section 482 Cr.P.C. for quashing of FIR No. 366/2016 dated 21.10.2016 under Sections 419/420/406/120B IPC registered at PS: Preet Vihar along with proceedings emanating therefrom predicated on a settlement

7. As per the case of the prosecution, complaint was received against Mr. Mitra Sen Sharma, Ex. Dy. Director, DDA, Mr. Dhir Singh Malik, Mr.R.K. Sharma, Mr. Rajiv Sharma, Sushil and other unknown persons for committing the offences of cheating, criminal breach of trust, forgery using the forged documents as genuine with common intention and criminal conspiracy punishable under Sections 420/406/468/471/120B/34 IPC.

8. The complaint was made by one Mr. Ashok Jain, who was one of the Directors and authorized persons authorized vide Board Resolution dated 18.05.2016 to file the complaint, for and on behalf of M/s Infinity World Pvt. Ltd., a real estate private company duly registered by the Sub-Registrar of Delhi and Haryana, having its registered office at C-53, Preet Vihar, Delhi-110092. Complainant is a businessman and was well-known to accused Mr. Mitra Sen Sharma since the days when the accused was in service and working as Dy. Director in Delhi Development Authority.

9. It is alleged that as a friend and well-known person, complainant used to visit him in his office as well as in his house and *vice-versa*. After his retirement, accused Mr. M.S. Sharma started doing real estate business. Complainant was having full trust and faith in him being a good friend but he betrayed the faith of complainant due to his greed and with dishonest intention since beginning and committed fraud with the complainant.



10. Accused Mr. M.S. Sharma hatched a deep-rooted criminal conspiracy with other co-accused persons and in furtherance of such criminal conspiracy, the accused persons manufactured, forged and fabricated Agreement and other documents of Sale and Purchase of a piece of land ad-measuring 3 acres situated in village Mukhmel Pur, Delhi and used these documents representing them to be genuine, knowing that they were forged, with criminal intent to commit serious fraud on the complainant, causing wrongful loss to tune of Rs.1.50 crores to the complainant and wrongful gain to themselves. The accused persons misrepresented the facts as well as genuineness of the documents, despite knowing fully well that the accused persons had no right, title or authority to negotiate for selling the land and to execute Agreement for sale and purchase. Accused persons further represented to the complainant that the said piece of land was free from all encumbrances and also gave an impression that they have good connections with the Government officials of the Revenue Department and there would be no difficulty in getting the Sale Deed registered and carrying out mutation in favour of the complainant in the revenue record. Complainant was asked by the accused persons to arrange an amount of Rs. One Crore to be paid as advance money, which he paid by Demand Draft bearing No. 201748 for an amount of Rs.50 lakhs drawn on ICICI Bank, Preet Vihar Branch, Delhi in favour of Pradeep and Rs.25 lakhs in cash was handed over to Mr. M.S. Sharma and Mr. Rajeev Sharma. After few days of the execution of said Agreement, accused persons Mr. D.S. Malik, Mr. R.K. Sharma and Mr. Rajiv Sharma again came to the office of the complainant and insisted on payment of further Rs. 50 lacs. Accordingly, an amount of Rs. 50 lacs was paid vide demand draft bearing No. 201749



dated 16.05.2013 in favour of Pradeep and was handed over to Mr. R.K. Sharma.

11. Later, when the complainant visited the land in question, he came across an aged woman on the land, who introduced herself as mother of the recorded land owners (Mr. Pradeep Kumar Rana and Mr. Amardeep Rana). Complainant was shocked on realizing that he had been cheated and thus, filed the complaint, which culminated into the present FIR.

12. During pendency of the criminal proceedings, Petitioners have entered into a settlement with the complainant and refunded the money received from him. Premised on this, the learned Trial Court vide order dated 26.07.2023 compounded the offences under Sections 420/406/419 IPC and acquitted the accused persons. Since Section 120B IPC is non-compoundable, Petitioners have approached this Court seeking quashing.

13. Learned counsel for Petitioners states that since substantial offences have been compounded and only Section 120B IPC remains, FIR be quashed as all disputes *inter-se* the parties have been settled and Petitioners have refunded the money taken from the complainant.

14. Issue notice.

15. Learned APP accepts notice on behalf of the State.

16. Mr. Bharat Singh accepts notice on behalf of the Respondent No.2/ complainant.

17. Petitioners and Respondent No. 2 are present in Court and are identified by their respective counsels as well as by Investigating Officer SI Mukesh, PS: Preet Vihar. Complainant states that disputes have been settled and he has received Rs.1.60 Crores from the Petitioners and in this view, does not wish to prosecute the complaint. Learned APP also has no



objection to the quashing of the FIR.

18. The Supreme Court in *Gian Singh v. State of Punjab and Another, (2012) 10 SCC 303*, observed that while exercising inherent powers under Section 482 Cr.P.C. in respect of quashing of an FIR where parties have entered into amicable resolution of the disputes, one of the considerations would be whether it would be unfair or contrary to the interest of justice to continue the criminal proceedings despite the compromise and if the answer to the question is in the affirmative, the High Court would be well within its jurisdiction to quash the criminal proceedings, in order to ensure that the disputes are put to an end and peace is restored as securing the ends of justice is the ultimate guiding factor. This was of-course with a caveat that heinous and serious offences of mental depravity or offences like murder, dacoity etc. cannot be fittingly quashed even though the victim or the victim's family settles the disputes with the offender. Relevant paragraphs of the judgment are as follows:-

“55. In the very nature of its constitution, it is the judicial obligation of the High Court to undo a wrong in course of administration of justice or to prevent continuation of unnecessary judicial process. This is founded on the legal maxim quando lex aliquid alicui concedit, conceditur et id sine qua res ipsa esse non potest. The full import of which is whenever anything is authorised, and especially if, as a matter of duty, required to be done by law, it is found impossible to do that thing unless something else not authorised in express terms be also done, may also be done, then that something else will be supplied by necessary intendment. Ex debito justitiae is inbuilt in such exercise; the whole idea is to do real, complete and substantial justice for which it exists. The power possessed by the High Court under Section 482 of the Code is of wide amplitude but requires exercise with great caution and circumspection.

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58. Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in



futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.

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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 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.”

19. In *Ramgopal and Another v. State of Madhya Pradesh, 2021 SCC OnLine SC 834*, the Supreme Court held as follows:-

“11. True it is that offences which are ‘non-compoundable’ cannot be compounded by a criminal court in purported exercise of its powers under Section 320 Cr.P.C. Any such attempt by the court would amount to alteration, addition and modification of Section 320 Cr.P.C, which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320 Cr.P.C., which may justify its wider interpretation and include such offences in the docket of ‘compoundable’ offences which have been consciously kept out as non-compoundable. Nevertheless, the limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 Cr.P.C. The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482 Cr.P.C. in aid to



prevent abuse of the process of any Court and/or to secure the ends of justice.

12. *The High Court, therefore, having regard to the nature of the offence and the fact that parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under Section 482 Cr.P.C., even if the offences are non-compoundable. The High Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyze the very object of the administration of criminal justice system.*

13. *It appears to us that criminal proceedings involving non-heinous offences or where the offences are pre-dominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post-conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extra-ordinary power under Section 482 Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482 Cr.P.C. may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in Narinder Singh v. State of Punjab, (2014) 6 SCC 466 and Laxmi Narayan (Supra).*

14. *In other words, grave or serious offences or offences which involve moral turpitude or have a harmful effect on the social and moral fabric of the society or involve matters concerning public policy, cannot be construed betwixt two individuals or groups only, for such offences have the potential to impact the society at large. Effacing abominable offences through quashing process would not only send a wrong signal to the community but may also accord an undue benefit to unscrupulous habitual or professional offenders, who can secure a 'settlement' through duress,*



threats, social boycotts, bribes or other dubious means. It is well said that “let no guilty man escape, if it can be avoided.”

20. In ***State of Madhya Pradesh v. Laxmi Narayan and Others, (2019) 5 SCC 688***, the observations of the Supreme Court are as follows:-

“15.1. That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2. Such power is not to be exercised in those prosecutions which involved 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;

15.3. Similarly, such power is not to be exercised for the offences under the special statutes 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;

15.4. xxx xxx xxx

15.5 While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise, etc.”

21. In view of the observations of the Supreme Court in the aforementioned judgments, this Court finds no impediment in quashing the present FIR, as parties have amicably resolved their disputes. Offences under Sections 420/406/419 IPC have been compounded and the complainant takes a categorical position before this Court that he does not wish to pursue the complaint. In these facts, chances of conviction are bleak



and it would be an abuse of the process of law if the criminal proceedings continue. This Court is fortified in its view by the decision of this Court in ***Pankaj Kumar Keshav Lal Darji & Anr. v. State NCT of Delhi & Anr., W.P. (Crl.) 2489/2021***, decided on 07.02.2022, where the Court has quashed the FIR under similar provisions, predicated on settlement between the parties therein.

22. Accordingly, FIR No. 366/2016 dated 21.10.2016 under Sections 419/420/406/120B IPC registered at PS: Preet Vihar is quashed including proceedings emanating therefrom, subject to payment of costs of Rs.10,000/- by each Petitioner, in favour of “Child Rights and You (CRY)”, [Contact Person: Aastha Dayal, Consultant, Mobile No.9810092712, E-mail aasthadayal.apr@gmail.com], within six weeks from today. Proof in support thereof shall be filed with the Registry within one week thereafter and in case of failure to comply with the said direction, petition will be listed before Court by the Registry.

23. Petition stands allowed and disposed of along with pending applications.

JYOTI SINGH, J

MARCH 20, 2024

B.S. Rohella