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

+ **CRL.M.C. 8612/2024**

HIMANSHU SHRIVASTAV @ MONU

& ANR.

.....Petitioners

Through: Mr. Manoj Chauhan &
Mr. Rajkumar, Advs.
Petitioners in person

versus

STATE GOVT. OF NCT OF DELHI

AND ANR.

.....Respondents

Through: Mr. Mukesh Kumar, APP
for the State
SI Suresh Kumar, PS-
New Usmanpur
Mr. Mohd. Sharique, Adv.
R2 in person

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **29.10.2024**

CRL.M.A. 32920/2024 (for exemption)

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

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3. The present petition is filed seeking quashing of FIR No. 887/2016 dated 22.11.2016, registered at Police Station New Usmanpur, for offences under Sections 341/354/506/509/34 of the Indian Penal Code, 1860 ('IPC'), including all consequential proceedings arising therefrom.
4. Chargesheet has been filed in the present case under Sections 341/354/506/509/34 of the IPC and Section 12 of the

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Protection of Children from Sexual Offences Act, 2012 ('POCSO Act').

5. By order dated 28.02.2023, in SC No. 116/2020 arising out of the above-mentioned FIR, charges were framed against Petitioner No. 1 for the offences under sections 354D/354/341/509 of the IPC and Section 12 read with section 11 (i) and (iv) of the POCSO Act, and against Petitioner No. 2 for offences under sections 509/506 (para I) of IPC and the same is pending before the court of learned Additional Sessions Judge, Karkardooma Courts, Delhi.

6. The FIR was registered on a complaint given by Respondent No.2, who was in 10th class at the time of the incident. It is alleged that Respondent No. 2/ complainant was being harassed and teased by Petitioner No. 1 since the last 7-8 months on her way back from school. It is alleged that on 22.11.2016, when she was returning from school, Petitioner No. 2 (mother of Petitioner No. 1) abused Respondent No. 2/ complainant and threatened to pour acid on her face. The incident led to the registration of the present FIR.

7. The learned counsel for the parties submits that the parties were neighbours at the relevant time and the FIR was registered due to a misunderstanding.

8. He submits that the parties have since amicably settled their disputes and wish to live their lives peacefully in future.

9. The incident happened way back in the year 2016, when Petitioner No. 1 was a young man of 20 years of age. The parties have since moved on in life. Respondent No. 2 has since been married and is having a minor child. She is stated to be residing in the State of Haryana.

10. The present petition has been filed on the ground that the



parties have settled their disputes, with the intervention of respectable members of society and their respective family members, by way of Compromise Deed dated 23.09.2024, on their own free will, consent, without any fear, pressure, coercion, or undue influence.

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

12. Respondent No.2 states that while there had been a quarrel between the accused persons and her family members, however, no such incident of harassment had ever taken place.

13. Respondent No. 2, on being asked, states that she does not wish to pursue any proceeding arising out of the present FIR and has no objection if the same is quashed.

14. Offences under Sections 506/509 of the IPC are compoundable whereas offences under Sections 341/354/354(D) of the IPC and Section 12 of the POCSO Act are non-compoundable.

15. 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)

16. 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)

17. In the present case, the offences under Sections 354/354(D) of the IPC are involved which cannot be termed as offences in *personam*. Moreover, as the victim was a minor at the time of the incident, the offence under Section 12 of the POCSO Act was also included. Concededly, such offences cannot be quashed on the basis of settlement.

18. However, it cannot be ignored that the victim has categorically stated that the petitioners committed no offence and that there was only a quarrel between the parties. It is unlikely that the present case would lead to conviction when the victim herself has not supported the case of the prosecution. Victim has also moved on in life and is married with a minor child living in Haryana. In the peculiar facts of the present case, the continuation of the proceedings would serve no purpose and the same would only lead to acrimony between the parties and heart burn.



19. 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.

20. However, keeping in mind the fact that the State machinery has been put to motion, ends of justice would be served if the petitioners are put to cost.

21. In view of the above, petitioners are discharged of all the offences and the FIR No. 887/2016 and all orders in the present FIR and consequential proceedings arising therefrom are quashed, subject to payment of cost of ₹20,000/- by the petitioners, to be deposited with the Delhi Police Welfare Society within a period of twelve weeks.

22. Let the proof of deposit of cost be submitted with the concerned SHO.

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

AMIT MAHAJAN, J

OCTOBER 29, 2024

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