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

+ **CRL.M.C. 3683/2024 & CRL.M.A. 14114/2024**

**ASHUTOSH TYAGI**

..... Petitioner

Through: Mr. Rohan Malik, Advocate along  
with Petitioner in person.

versus

**STATE NCT OF DELHI AND ANR.**

..... Respondents

Through: Mr. Digam Singh Dagar, APP for  
State with SI Chetan, PS: Swaroop Nagar.  
Mr. P.K. Malik, Advocate for R-2 along with R-2  
in person.

**CORAM:**

**HON'BLE MS. JUSTICE JYOTI SINGH**

**ORDER**

**08.05.2024**

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1. This petition has been filed on behalf of the Petitioner under Section 482 Cr.P.C. seeking quashing of FIR No. 492/2016 dated 10.12.2016 under Sections 380/427/448 IPC registered at PS: Swaroop Nagar including proceedings emanating therefrom.
2. As averred in the petition, one Naman Sharma son of Respondent No. 2 and Saroj Sharma purchased two plots of 50 sq. yds. each out of Khasra No. 39/10, Village Burari, Delhi on 22.10.2013. A civil suit bearing No. 706/2016 was filed on 26.10.2016 by one Rajender Tyagi in the Court of Additional District Judge, Rohini against Rakesh Kumar and Others impleading Naman Sharma as Defendant No. 2 and Saroj Sharma as Defendant No. 3 in respect of the said property. As per the prosecution case,



Saroj Sharma received telephonic information from one Anand Singh Rawat that the room and walls constructed over the plot were being demolished by JCB and on reaching the spot, it was found that the room had been demolished and boundary wall was broken and the two gates and roof stone were stolen. Call was made on 100 number and the Police came after 3 to 4 hours. People who were present at the spot had videos and photographs of the demolition which showed that the act of demolition was of the accused person i.e. the Petitioner.

3. It is stated in the petition that in the civil suit, parties negotiated the terms of settlement and the matter was settled before the Mediation Centre, Rohini District Courts, Delhi wherein on 15.04.2023, a Memorandum of Understanding was executed whereafter Naman and Saroj Sharma gave a joint statement before the Civil Court that the matter was settled and they will abide by the terms and conditions of the MoU. The suit was disposed of as withdrawn in terms of the compromise. Parties agreed that Respondent No. 2 would co-operate in quashing the present FIR. Charge sheet has not been filed till date and in view of the settlement, Petitioner prays for quashing of the FIR.

4. Issue notice.

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

6. Mr. P.K. Malik, learned counsel accepts notice on behalf of Respondent No.2.

7. Petitioner and Respondent No.2/Complainant are present in Court and are identified by the Investigating Officer SI Chetan, PS: Swaroop Nagar. Respondent No.2 states that the matter has been amicably resolved and it would not be in the interest of both the parties if the criminal proceedings



continue against the Petitioner and in this backdrop, gives no objection to the quashing of the FIR. Learned APP also does not object to the quashing, since parties have resolved and settled their disputes.

8. The Supreme Court in ***Gian Singh v. State of Punjab and Another, (2012) 10 SCC 303***, observed that while dealing with the issue of quashing of an FIR where the parties enter into amicable resolution of disputes, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceedings despite a compromise between the victim and the wrong doer and if the answer to the question is in the affirmative, the High Court would be within its jurisdiction to quash the criminal proceedings. Relevant paragraphs 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.”*

9. In a later judgment in the case of ***Narinder Singh and Others v. State of Punjab and Another***, (2014) 6 SCC 466, the Supreme Court reiterated the proposition and relevant paragraphs are as follows:-

*“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.”*

10. In ***B.S. Joshi and Others v. State of Haryana and Another, (2003) 4 SCC 675***, the Supreme Court has observed that Section 320 Cr.P.C. would not be an impediment in quashing non-compoundable offences in exercise of inherent powers under Section 482 Cr.P.C. where the facts and circumstances of the case call upon the Court to do so in the interest of justice. It has been held in various judgments that power of compounding and quashing of criminal proceedings in exercise of inherent powers are not equal or interchangeable in law.

11. Parties have mutually settled all their disputes. In view of the settlement between the parties and the categorical stand of Respondent No.2 that he does not want to pursue the complaint, no useful purpose will be achieved in continuing the criminal proceedings emanating from the present FIR, as the chances of conviction are bleak and it would be in the interest of justice that the proceedings are terminated. This Court is fortified in its view by the decisions of this Court in ***Gajraj and Ors. v. State of NCT Delhi, W.P.(CRL.) 2481/2022***, decided on 20.10.2022 and ***Anand Prakash Gupta v. The State and Anr. & Anr., W.P.(CRL.) 967/2022***, decided on 29.04.2022, where the Courts have quashed FIRs under similar provisions, predicated on settlements between the parties, in the interest of justice. This Court finds no impediment in quashing the FIR, which is predicated on a settlement between the Petitioner and Respondent No.2.



12. Accordingly, FIR No. 492/2016 dated 10.12.2016 under Sections 380/427/448 IPC registered at PS: Swaroop Nagar stands quashed including proceedings emanating therefrom.

13. Petition alongwith pending application stands disposed of.

**JYOTI SINGH, J**

**MAY 08, 2024/kks/shivam**