



\$~100

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

+ **W.P.(CRL) 3455/2024**

AMIT KUMAR & ORS.

.....Petitioners

Through: Mr. Dinesh Kumar
Sharma, Mr. Ashish
Balyan & Mr. Jai Subhash
Thakur, Advocates
alongwith All Petitioners-
in-Person.

versus

**THE STATE GOVT.OF NCT OF DELHI
AND ANR.**

.....Respondents

Through: Mr. Yasir Rauf Ansari,
ASC-CRL for the State
alongwith Mr. Alok
Sharma & Mr. Vasu
Agarwal, Advocates.
SI Santosh Kumar.
Respondent No.2-in-
Person.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

06.11.2024

%

**CRL.M.A. 33217/2024 (exemption from filing certified copies
of annexures)**

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

W.P.(CRL) 3455/2024

3. The present petition is filed seeking quashing of FIR No. 1116/2022 dated 21.12.2022, registered at Police Station Mukherjee Nagar, for offence under Sections 308/34 of the Indian Penal Code, 1860 ('IPC'), including all consequential

W.P.(CRL) 3455/2024

Page 1 of 8



proceedings arising therefrom. The said FIR was registered on a complaint filed by Respondent No. 2.

4. It is alleged that Respondent No.2, who is a college student, met a boy through Blued Dating App, who along with few other people misbehaved with him and also abused him.

5. The learned counsel for the petitioners submits that the parties were known to each other and were students in the same University. He submits that due to a misunderstanding, certain altercation took place between the parties.

6. The parties are present before this Court in person and have been duly identified by the Investigating Officer.

7. The petitioners are present in person and have unconditionally apologized for their misbehavior and undertake to not indulge in such activities in the future.

8. Respondent No.2 is present in person and states that he is satisfied with the apology tendered by the petitioners and he has also been adequately compensated with the medical expenses. He submits that he does not wish to pursue any proceedings and has no objection if the proceedings arising out of the present FIR is quashed.

9. Offence under Section 308 of the IPC is non-compoundable.

10. 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 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. The Hon'ble Apex Court has laid down parameters and guidelines for High Court while accepting settlement and quashing the proceedings. In the

W.P.(CRL) 3455/2024

Page 2 of 8



case of *Narinder Singh & Ors. v. State of Punjab & Anr.* :
(2014) 6 SCC 466, the Hon'ble Supreme Court had 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.*

29.6. *Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delicate parts of the body, nature of weapons used, etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.*

29.7. *While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is*



still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come to a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.”

(emphasis supplied)

11. 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 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)

12. In the present case, Respondent No.2 has stated that he does not wish to pursue the proceedings arising out of the present FIR. He stated that he has no remaining grievance against the petitioners. In the peculiar circumstances of this case, it is unlikely that the present FIR will result in a conviction when Respondent No. 2 does not wish to pursue the case. The parties are known to each other and, in such circumstances, continuation of the proceedings would only cause undue harassment and heartburn to the parties.

13. Keeping in view the nature of dispute and that the parties have amicably resolved their disputes, this Court feels 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.



14. 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.

15. In view of the above, FIR No. 1116/2022 and all consequential proceedings arising therefrom are quashed, subject to payment of a total cost of ₹20,000/- by the petitioners, to be deposited with the Delhi Police Welfare Society and ₹20,000 to be deposited with PM CARES for Children scheme, within a period of eight weeks from the date.

16. The proof of payment of cost to be submitted to the concerned SHO.

17. The learned Additional Standing Counsel for the State submits that as per the investigation, there was another victim at the time of incident. No other victim is mentioned in the FIR. If any complaint is filed by the victim, the State is at liberty to take appropriate action in that regard.

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

AMIT MAHAJAN, J

NOVEMBER 6, 2024

'Aman'