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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 8763/2024

DANISH

.....Petitioner

Through: Mr. Tabrez, Adv. along
with petitioner in person.

versus

THE STATE NCT OF DELHI & ORS.Respondent

Through: Mr. Utkarsh, APP for the
State.
SI Kiran Dayal, PS Moti
Nagar.
Mr. Mohd. Khurshid &
Mr. Nasir, Advs. for R-2
& R-3 along with R-2 &
R-3 in person.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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28.11.2024

CRL.M.A. 33540/2024 (exemption)

1. Exemption 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. 408/2019 dated 18.09.2019, registered at Police Station Moti Nagar, for offences under Sections 354(C) of the Indian Penal Code, 1860 ('**IPC**') and Section 12 of the Protection of Children from Sexual Offences Act, 2012 ('**POCSO Act**'), including all consequential proceedings arising therefrom.
4. The charge sheet, in the present case has been filed under

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Sections 354(C)/ 363 of the IPC, Sections 12/15 of the POCSO Act and Sections 67B/66E of the Information Technology Act, 2000 against the petitioner and co-accused Kashish Gulati. However, during the proceedings before the learned Trial Court, case of co-accused Kashish Gulati has been transferred to Juvenile Justice Board on his claim that he was juvenile at the time of chargesheet.

5. The FIR was registered on a complaint given by Respondent No.2, who alleged that co-accused Kailash Gulati in connivance with the petitioner used to blackmail Respondent No.3/victim, aged 15 years. It is alleged that the petitioner harassed the victim, made an obscene video of her and blackmailed her. The incident led to the registration of the present FIR.

6. The learned counsel for the petitioner submits that the parties have since amicably settled their disputes, of their own free will, without any force, pressure, undue influence, misrepresentation, or mistake as per Memorandum of Understanding dated 05.11.2024 and wish to live their lives peacefully in future.

7. The incident happened way back in the year 2019, when petitioner was a young man of 20 years of age. The parties have since moved on in life.

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

9. Respondent No.3 has turned major and decided to move on in life. Respondent No. 2 & 3, on being asked, state that they do not wish to pursue any proceeding arising out of the present FIR and have no objection if the same is quashed.

10. Offences under Sections 354(C)/363 of the IPC, Sections
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12/15 of the POCSO Act and Sections 67B/66E of the IT Act are non-compoundable in nature.

11. 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 quash 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)

12. Similarly, in ***Parbatbhai Aahir & Ors v. State of Gujarat & Anr. reported as (2017) 9 SCC 641***, the Hon’ble Supreme Court has 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)

13. It is not in doubt that the Section 354(C) of the IPC, Section 12/15 of the POCSO Act and Sections 67B/66E of the IT Act are heinous in nature and involve mental depravity. Concededly, such offences cannot be quashed on the basis of settlement. Such offences, in true sense, cannot be said to be offences *in personam* as the same are crimes against the society.

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14. However, it cannot be ignored that the complainant and victim have categorically stated that the matter has been settled and they do not want to pursue the present proceedings. It is unlikely that the present case would lead to conviction when the complainant and victim do not want to pursue the present case. Victim has also moved on in life. 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.

15. Keeping in view the aforesaid facts, this Court feels that keeping the dispute alive and continuance of the proceedings would be an 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.

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

17. In view of the above, petitioner is discharged of all the offences and the FIR No.408/2019 and all orders in the present FIR and consequential proceedings arising therefrom are quashed, subject to payment of cost of ₹10,000/- by the petitioner, to be deposited with the Delhi Police Welfare Society within a period of twelve weeks.

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

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

AMIT MAHAJAN, J

NOVEMBER 28, 2024

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