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

+ **CRL.M.C. 4243/2018 and CRL.M.A. 30488/2018**

DR. DALIP GUPTA AND ORS.

..... Petitioners

Through: Mr. Divyakant Lahoti and Ms. Shreya Gokel, Advocates along with Petitioners No.1 & 2 in person and Petitioner No.3 through VC.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Ms. Richa Dhawan, APP with SI Sunil Kumar, PS: Prashant Vihar, for State.
Ms. Harshita Gulati and Mr. Anshul Sharma, Advocates for Respondent No.2/ complainant.

+ **CRL.M.C. 2586/2019 and CRL.M.A. 10366/2019, 37764/2019, 37765/2019, 4983/2020, 4984/2020, 4985/2020 and 34126/2023**

DR. DALIP GUPTA & ORS.

..... Petitioners

Through: Mr. Divyakant Lahoti and Ms. Shreya Gokel, Advocates along with Petitioners No.1 & 2 in person and Petitioner No.3 through VC.

versus

STATE & ANR

..... Respondents

Through: Ms. Richa Dhawan, APP with SI Sunil Kumar, PS: Prashant Vihar, for State.
Ms. Harshita Gulati and Mr. Anshul Sharma, Advocates for Respondent No.2/ complainant.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

26.04.2024

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1. CRL.M.C. 4243/2018 has been filed by the Petitioners under Section 482 Cr.P.C. seeking quashing of FIR No.0691/2017 dated 17.12.2017



registered at PS: Prashant Vihar under Sections 451/363/389 IPC and the proceedings emanating therefrom.

2. CRL.M.C. 2586/2019 has been filed by the Petitioners seeking quashing of the Charge Sheets dated 28.06.2018, 17.11.2018 and 11.12.2018 under Sections 506/385/451/34 IPC emanating from FIR No.691/2017, as well as for quashing of the summoning order dated 12.12.2018 passed by learned MM-04 (North), Rohini Courts, Delhi.

3. From a reading of the petitions, it is evident that CRL.M.C. 4243/2018 was filed seeking quashing of FIR 691/2017 and on account of issuance of summons and Charge Sheets during the pendency of trial, CRL.M.C. 2586/2019 was filed assailing them. During the pendency of these petitions, parties were referred to the Delhi High Court Mediation and Conciliation Centre to explore the possibility of amicable settlement of their *inter se* disputes.

4. Mediation report has been received. Parties have resolved their disputes and in furtherance of the settlement, a Settlement Agreement was executed on 09.04.2024, incorporating the terms of settlement, copy of which has been placed on record. Parties have, *inter alia*, agreed that they shall withdraw all pending cases against each other filed in India on or before 30.05.2024. Additionally, Dr. Alok Joshi shall handover a Demand Draft in the sum of Rs.28,50,000/- in favour of the First Party to the agreement, namely Dr. Dalip Gupta, Dr. Prateek Gupta and Dr. Rita Gupta, as a goodwill gesture, to end the acrimony between the parties and maintain harmony in future.

5. Mr. Divyakant Lahoti, learned counsel for the Petitioners submits that Petitioners have performed their part of the obligations under the Settlement



Agreement and have withdrawn the pending cases. Counsel for the complainant states that complainant has also fulfilled his part of the obligation in consonance with paragraph 3 of the agreement. Insofar as FIR 42/2017 under Section 323/427/506/341/147/149/34 IPC registered at PS: Dabwali, pending in the Court of Judicial Magistrate 1st Class at Hisar is concerned, no objection has already been given, on the basis of the settlement, in support of quashing of the FIR. All the other three pending cases being CRR/79/2022; Criminal Case No.3590/2018; and Criminal Complaint No.1454/2019 have been withdrawn. Further, as agreed, a sum of Rs.28,50,000/- has been paid in discharge of the obligations under the Settlement Agreement.

6. Petitioners and complainant have joined Court proceedings and are identified by the IO/SI Sunil Kumar, PS: Prashant Vihar. In view of settlement between the parties, terms of which stand complied, Complainant has no objection to the quashing of the present FIR and the Charge Sheets as well as proceedings emanating therefrom. Learned APP for the State submits that with a view to put a quietus to litigation, parties have settled the matter before the Mediation Centre and the State has no objection if the FIR is quashed.

7. 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 predominately 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."

8. In view of the settlement between the parties and the observations of the Supreme Court in **Gian Singh (supra)**, in my view, it would be in the interest of justice if the criminal proceedings, arising out of the present FIR, are terminated so that there is no more acrimony between the parties and the harmony established continues. Even otherwise, in view of the stand of the Complainant that he does not wish to pursue the complaint, chances of conviction are bleak.

9. Accordingly, FIR bearing No.0691/2017 dated 17.12.2017 registered at PS: Prashant Vihar under Sections 451/363/389 IPC, is quashed along with Charge Sheets dated 28.06.2018, 17.11.2018 and 11.12.2018 under Sections 506/385/451/34 IPC and the summoning order dated 12.12.2018 passed by learned MM-04 (North), Rohini Courts, Delhi including the proceedings emanating therefrom.

10. Petitions stand disposed of along with the pending applications.

JYOTI SINGH, J

APRIL 26, 2024

B.S. Rohella