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

+ **CRL.M.C. 199/2025 & CRL.M.A. 1022/2025**

BITTU YADAV ALIAS SHIVSHANKAR AND ORS

.....Petitioners

Through: Mr. Rajesh Kumar, Advocate for P-1,
2 & 3

versus

STATE THROUGH SHO PS DWARKA NORTH AND ORS

.....Respondents

Through: Mr. Satinder Singh Bawa, APP for
the State with SI Beena, PS Dwarka
South and SI Rajender Kumar, Delhi
Police Academy

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

03.03.2025

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1. The present petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (earlier Section 482 of the Code of Criminal Procedure, 1973²) seeks quashing of FIR No. 0037/2018 under Sections 341, 308 and 34 of the Indian Penal Code, 1860³, registered at P.S. Dwarka North and all proceedings emanating therefrom. In this regard, it is noted that a chargesheet has already been filed before the ASJ, Dwarka Courts and the trial is ongoing.

2. Briefly, the case of the prosecution against the Petitioners is that on

¹ "BNSS"

² "Cr.P.C."

³ "IPC"



3rd February, 2018, the Complainant (Respondent No. 2), along with Neeraj (Respondent No. 3) went to attend the wedding celebrations of a common friend. The two reached the banquet hall where the said wedding celebrations were being held, at around 8:30 PM, and started drinking outside the hall. Later, at approximately 11:30 PM, when they went inside to eat, they discovered that the food stalls had closed. Pertinently, the Petitioners, who had been engaged as confectioners (Halwais) for the event, were still present at the venue. The Complainant approached them and asked for food. However, an altercation ensued between the Complainant and the Petitioners, during which one of the Petitioners allegedly struck the Complainant on the head with an iron *palta*—a utensil commonly used in confectionary preparation.

3. When Respondent No. 3, Neeraj, noticed the commotion and attempted to intervene, he too was struck on the head with an iron rod, causing him to collapse. The altercation was eventually broken up by bystanders, after which the Complainant rushed Neeraj to the hospital. The Medico-Legal Case (MLC) report confirmed that Neeraj had sustained a grievous head injury. Consequently, based on the Complainant's statement, the subject FIR was registered on 5th February, 2018, under Sections 341, 308, and 34 of the IPC, and subsequently, a chargesheet was filed.

4. The parties state that, on 24th December, 2024, with the intervention of family friends and other respected members of society, Respondent No. 2 (the Complainant) and Respondent No. 3 (injured person Neeraj) amicably resolved the dispute and decided not to pursue the present FIR against the



Petitioners. Pursuant to this settlement, a Memorandum of Understanding⁴ dated 24th December, 2024, was executed between the Petitioners and Respondents No. 2 and 3.

5. A copy of the MoU has been placed on record and perused by the Court. As per its terms, Respondent No. 2 (the Complainant) and Respondent No. 3 (Neeraj) have mutually resolved all disputes and differences with the Petitioners. In furtherance of the settlement, the Petitioners have paid a total compensation of INR 50,000/- to Respondents No. 2 and 3. The parties have also mutually agreed to seek quashing of FIR No. 37/2018, and Respondents No. 2 and 3 have voluntarily given their no-objection to the same.

6. In view of the settlement, the Complainant, who has appeared before the Court *via* video conferencing, has unequivocally stated that he does not wish to pursue the FIR proceedings. He has further confirmed that his decision to settle the matter is voluntary and made without any undue influence or coercion. Additionally, the Petitioners have also joined the proceedings through video conferencing and have been duly identified by the Investigating Officer. In light of the amicable resolution between the parties, the Petitioners seek quashing of the FIR and all proceedings arising therefrom.

7. Mr. Satinder Singh Bawa, APP for the State, points out that the proceedings initiated pursuant to the present FIR, are at advanced stage before the Trial Court. He submits that the statement of Respondent No. 2 has already been recorded during trial, wherein he has supported the case of the prosecution.

⁴ “MoU”



8. The Court has considered the submissions of the parties. While the offence under Section 308 IPC is non-compoundable, Section 34 IPC is compoundable in certain circumstances. It is well settled that in the exercise of its inherent powers under Section 482 CrPC (now Section 582 BNSS), the Court may, in appropriate cases, quash proceedings in respect of non-compoundable offences if the parties have reached a genuine settlement and no overarching public interest is adversely affected. The Supreme Court in *Gian Singh v. State of Punjab & Anr.*⁵ has held as follows:

“11. As discussed above, offence punishable under Section 186/332/353 of the IPC are non-compoundable being of serious nature, however, if the Court feels that continuation of criminal proceedings will be an exercise in futility and justice in this case demands that the dispute between the parties is put to an end and peace is restored, it can order for quashing of the FIR or criminal proceedings as it is the duty of the Court to prevent continuation of unnecessary judicial process.

12. In view of the law discussed above, considering the Settlement arrived at between the parties and the statements of respondent no.1 & 2, I am of the considered opinion that this matter deserves to be given a quietus as continuance of proceedings arising out of the FIR in question would be an an exercise in futility.”

[Emphasis added]

9. Further, in *Narinder Singh & Ors. v. State of Punjab & Anr.*,⁶ the Supreme Court held as follows:

“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

⁵ (2012) 10 SCC 303

⁶ (2014) 6 SCC 466



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]

10. While it is true that the offence under Section 308 of IPC is not an offence in *personam*, meaning thereby that it affects society at large and not just the individual complainant, the Court must also take into account the practical realities of securing a conviction in the present case. The Supreme Court has consistently held that where the chances of conviction are remote due to an amicable settlement between the parties, the Court should consider whether continuing the prosecution would serve any meaningful purpose. Since the Complainants have entered into a voluntary and genuine settlement, and are unwilling to pursue the case, the likelihood of conviction



diminishes significantly. Thus, considering the totality of circumstances, the Court is of the view that allowing the prosecution of the impugned FIR to continue would serve no useful purpose. It would not only be a waste of judicial time but would lead to an unnecessary burden on the State Exchequer. In light of the settled legal position, the present case is fit for quashing under Section 482 of CrPC.

11. However, since the State machinery was set in motion based on the subject FIR, it is appropriate to impose costs on all of the Petitioners. Accordingly, all the Petitioners are directed to deposit INR 2,500/- each with the Delhi Police Welfare Fund.

12. In view of the foregoing, the present petitions are allowed and FIR No. 0037/2018 under Sections 341, 308 and 34 of the Indian Penal Code, 1860⁷, registered at P.S. Dwarka North, as well as all consequential proceedings arising therefrom are hereby quashed.

13. The parties shall remain bound by the terms of settlement.

14. Accordingly, the petition is disposed of along with pending applications.

SANJEEV NARULA, J

MARCH 3, 2025/ab

⁷ “IPC”