

Rajesh Kumar @ Rajesh Kasana vs The State Govt Of Nct Of Delhi & Anr on 6 August, 2024

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IN THE HIGH COURT OF DELHI AT NEW DELHI
CRL.M.C. 6048/2024

RAJESH KUMAR @ RAJESH KASANAPetitioner
Thru

ver

THE STATE GOVT OF NCT OF DELHI & ANR.

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Through: Mr. Naresh
Chahar, APP for
PSI Shivam Bish
Khajuri Khas.
Complainant thr

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORD

% 06.08.2024 CRL.M.A. 23119/2024 (for exemption)

1. Exemptions allowed, subject to all just exceptions.
2. The application stands disposed of.
3. The present petition is filed seeking quashing of FIR No. 249/2018 dated 19.05.20218, registered at Police Station Khajuri Khas, for offences under Sections 452/504/506/427 of the Indian Penal Code, 1860 ('IPC'). The chargesheet has been filed in the present case.
4. The FIR was registered pursuant to a complaint filed by Respondent No.2 under Section 200 of the Code of Criminal This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 30/08/2024 at 20:52:28 Procedure, 1973 ('CrPC') read with Section 156 of the CrPC. It was alleged that on 22.04.2018, at around 11:30 AM, the petitioner came to the house of Respondent No.2 and started quarrelling with him. It was alleged that the petitioner forcibly entered into the house of Respondent No. 2 and started pelting stones as well. It was alleged that the petitioner left the spot after Respondent No.2 raised alarm.

5. The learned counsel for the petitioner submits that the parties are known to each other and the FIR was registered on a misunderstanding.
6. He submits that the petitioner has tendered an unconditional apology for his misbehaviour with Respondent No.2. He submits that the parties have decided to bury their disputes and live their lives peacefully in the future.
7. The present petition has been filed on the ground that the parties have amicably settled all their disputes with the intervention of the Delhi Mediation Centre, Karkardooma Courts, Delhi and a settlement has been signed by the parties on 04.07.2024 to that effect.
8. The petitioner is present in person and Respondent No.2 is present through video conferencing. The parties have been duly identified by the Investigating Officer.
9. On being asked, Respondent No.2 states that he does not want to pursue any proceeding arising out of the present FIR and has no objection if the same is quashed.
10. He submits that the misunderstanding has been amicably resolved and he is satisfied with the unconditional apology tendered by the petitioner for his misbehaviour.
11. Offence under Section 452 of the IPC is non- compoundable whereas offences under Sections 504/506/427 of This is a digitally signed order.

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12. It is well settled that the High Court while exercising its powers under Section 482 of the CrPC can compound offences which are non-compoundable under the Code 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 *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, This is a digitally signed order.

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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)

13. Similarly, in *Parbatbhai Aahir & Ors v. State of Gujarat & Anr.* : (2017) 9 SCC 641, the Hon'ble Apex 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.

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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 This is a digitally signed order.

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(emphasis supplied)

14. In the present case, Respondent No.2 has stated that he has no remaining grievance against the petitioner and that he is satisfied with the petitioner's unconditional apology. 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 Respondent No.2.

15. Keeping in view the nature of dispute and that the parties have amicably entered into a settlement, 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. I am of the opinion that this is a fit case to exercise discretionary jurisdiction under Section 482 of the CrPC.

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

17. In view of the above, FIR No. 249/2018 and all consequential proceedings arising therefrom are quashed, subject to payment of a cost of 20,000/- by the petitioner, to be This is a digitally signed order.

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18. The petitioner is directed to provide a copy of the receipt of deposit of cost to the concerned IO/ SHO.

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

AMIT MAHAJAN, J AUGUST 6, 2024 "SK"

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