

Manish Beniwal & Ors vs The Government Of Nct Of Delhi & Anr on 19 March, 2024

Author: Jyoti Singh

Bench: Jyoti Singh

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CRL.M.C. 2224/2024

MANISH BENIWAL & ORS.

Through: Mr. Nikhil Dhiman,
Petitioners in person.

THE GOVERNMENT OF NCT OF DELHI
& ANR.

Through: Mr. Digam Singh Dag
State with ASI Kirti Singh,
Respondent No. 2 in person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

% 19.03.2024 CRL.M.A. 8616/2024 (exemption)

1. Allowed, subject to all just exceptions.

2. Application stands disposed of.

3. This petition has been filed on behalf of the Petitioners under Section 482 Cr.P.C. for quashing of FIR No. 456/2022 dated 02.09.2022 under Sections 323/341/506/34 IPC registered at PS: Dwarka South along with proceedings emanating therefrom.

4. It is stated in the petition that there was a financial transaction between the father of Petitioner No.2 and Respondent No.2 and due to some disputes relating thereto, a serious altercation took place between Respondent No.2 and the Petitioners and on a complaint made by 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 05/04/2024 at 21:31:47 Respondent No.2, present FIR was registered. However, as some of the parties are Advocates by profession, with the intervention of common friends and counsels, disputes were amicably settled between the parties and a Memorandum of Understanding was executed on 01.10.2023, copy of which has been placed on record. Office of the father of Petitioner No.2 and residence of Respondent No.2 are closely located to each other and they have known each other for years and therefore, if the FIR is not

quashed, the peace and harmony, which is now established, may not continue. It is, therefore, prayed that in the interest of justice, the FIR be quashed.

5. Issue notice.

6. Learned APP accepts notice on behalf of the State.

7. Petitioners and Respondent No. 2 are present in Court and are identified by the Investigating Officer ASI Kirti Singh, PS: Dwarka South. Complainant states that all disputes have been settled amicably between the parties and he has no objection to the quashing of the FIR and has already filed an affidavit in support of the petition giving his no objection. Learned APP states that the State has no objection to the quashing of the FIR, in view of the settlement between the parties.

8. 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 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 05/04/2024 at 21:31:47 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 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 05/04/2024 at 21:31:48 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 predominatingly 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 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 05/04/2024 at 21:31:48 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."

9. In Ramgopal and Another v. State of Madhya Pradesh, 2021 SCC OnLine SC 834, the Supreme Court held as follows:-

"11. True it is that offences which are 'non-compoundable' cannot be compounded by a criminal court in purported exercise of its powers under Section 320 Cr.P.C. Any such attempt by the court would amount to alteration, addition and modification of Section 320 Cr.P.C, which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320 Cr.P.C., which may justify its wider interpretation and include such offences in the docket of 'compoundable' offences which have been consciously kept out as non-compoundable. Nevertheless, the limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 Cr.P.C. The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482 Cr.P.C. in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.

12. The High Court, therefore, having regard to the nature of the offence and the fact that parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under Section 482 Cr.P.C., even if the offences are non-compoundable. The High Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyze the very object of the administration of criminal justice system.

13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are pre-dominantly of a private nature, can 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 05/04/2024 at 21:31:49 be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post-conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extra-ordinary power under Section 482 Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482 Cr.P.C. may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in *Narinder Singh v. State of Punjab*, (2014) 6 SCC 466 and *Laxmi Narayan* (Supra).

14. In other words, grave or serious offences or offences which involve moral turpitude or have a harmful effect on the social and moral fabric of the society or involve matters concerning public policy, cannot be construed betwixt two individuals or groups only, for such offences have the potential to impact the society at large. Effacing abominable offences through quashing process would not only send a wrong signal to the community but may also accord an undue benefit to unscrupulous habitual or professional offenders, who can secure a 'settlement' through duress, threats, social boycotts, bribes or other dubious means. It is well said that "let no guilty man escape, if it can be avoided."

10. In *State of Madhya Pradesh v. Laxmi Narayan and Others*, (2019) 5 SCC 688, the observations of the Supreme Court are as follows:-

"15.1. That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2. Such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and 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 05/04/2024 at 21:31:49 have a serious impact on society;

15.3. Similarly, such power is not to be exercised for the offences under the special statutes 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;

15.4. xxx xxx xxx 15.5 While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise, etc."

11. It would be relevant to refer to the view taken by this Court in the case of Akashsharma v. State & Anr., 2017 SCC OnLine Del 8152, where the Court while quashing an FIR under Sections 354/354A/341 IPC held as under:-

"9. The inherent powers of the High Court ought to be exercised to prevent the abuse of process of law and to secure the ends of justice. The respondent no. 2 agreed to the quashing of the FIR in question and stated that the matter has been settled out of her own free will. As the matter has been settled and compromised amicably, so, there would be an extraordinary delay in the process of law if the legal proceedings between the parties are carried on. So, this Court is of the considered opinion that this is a fit case to invoke the jurisdiction under Section 482 Cr.P.C. to prevent the abuse of process of law and to secure the ends of justice.

10. The incorporation of inherent power under Section 482 Cr.P.C. is meant to deal with the situation in the absence of express provision of law to secure the ends of justice such as, where the process is abused or misused; where the ends of justice cannot be secured; where the process of law is used for unjust or unlawful object; to

avoid the causing of harassment to any person by using the provision of Cr.P.C. or to avoid the delay of the legal process in the delivery of justice. Whereas, the inherent power is not to be exercised to circumvent the express provisions of law.

11. It is a settled law that the inherent power of the High Court under 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 05/04/2024 at 21:31:49 Section 482 Cr.P.C. should be used sparingly. The Hon'ble Apex Court in the case of State of Maharashtra through CBI v. Vikram Anatrai Doshi and in the case of Inder Singh Goswami v. State of Uttaranchal has observed that powers under Section 482 Cr.P.C. must be exercised sparingly, carefully and with great caution. Only when the Court comes to the conclusion that there would be manifest injustice or there would be abuse of the process of the Court if such power is not exercised, Court would quash the proceedings.

12. It is a well settled law that where the High Court is convinced that the offences are entirely personal in nature and therefore do not affect public peace or tranquility and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, pursuing prosecution would be waste of time and energy. Non-compoundable offences are basically an obstruction in entering into compromise. In certain cases, the main offence is compoundable but the connected offences are not. In the case of B.S. Joshi v. State of Haryana (2003) 4 SCC 675 the Hon'ble Apex Court observed that even though the provisions of Section 320 Cr.P.C. would not apply to such offences which are not compoundable, it did not limit or affect the powers under Section 482 Cr.P.C. The Hon'ble Apex Court laid down that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, section 320 Cr.P.C. would not be a bar to the exercise of power of quashing. In the nutshell, the Hon'ble Apex Court justified the exercise of powers under Section 482 Cr.P.C. to quash the proceedings to secure the ends of justice in view of the special facts and circumstances of the case, even where the offences were non-compoundable.

13. In the light of the aforesaid, this Court is of the view that notwithstanding the fact the offence under Section 354 is a non-compoundable offence, there should be no impediment in quashing the FIR under this section, if the Court is otherwise satisfied that the facts and circumstances of the case so warrant.

14. In the facts and circumstances of this case and in view of statement made by the Respondent No. 2 the FIR in question warrants to be put to an end and proceedings emanating thereupon need to be quashed."

12. This Court in Laishram Premila Devi and Others v. State and Others, 2021 SCC OnLine Del 1323, quashed two FIRs under Sections 509/506/323/341/354/354A/34 IPC, on the ground that complainants and accused had amicably settled their disputes and observed that it would be an

abuse of the process of law, if the legal proceedings continued.

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13. In view of the settlement between the parties, this Court finds no impediment in quashing the present FIR as even otherwise, the chances of conviction are bleak since the Complainant does not wish to pursue the proceedings. It would be in the interest of justice and to maintain peace and harmony between the parties to quash the FIR. This Court is fortified in its view by the decisions of this Court in *Arbaz v. State NCT of Delhi & Ors.*, CRL.M.C. 2044/2023, decided on 23.03.2023 and *Vishesh Aggarwal & Ors. v. State of NCT of Delhi & Anr.*, CRL.M.C. 2520/2023, decided on 24.11.2023, where the Courts have quashed the FIRs under similar provisions, predicated on settlements between the parties therein.

14. Accordingly, FIR No. 456/2022 dated 02.09.2022 under Sections 323/341/506/34 IPC registered at PS: Dwarka South is quashed including proceedings emanating therefrom, subject to payment of costs of Rs.10,000/- by each Petitioner, in favour of Delhi High Court Advocates Welfare Trust, bearing A/c no. 15530210002995 at UCO Bank, Delhi High Court Branch, within eight weeks from today. Proof in support thereof shall be filed with the Registry within one week thereafter and in case of failure to comply with the said direction, petitions will be listed before Court by the Registry.

15. Petition stands allowed and disposed of.

JYOTI SINGH, J MARCH 19, 2024/shivam 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 05/04/2024 at 21:31:49