

Ashok Kumar & Anr vs The State (Govt. Nct) Of Delhi & Ors on 13 August, 2024

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.M.C. 6252/2024 & CRL.M.A. 23913/20

ASHOK KUMAR & ANR.

Through:

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THE STATE (GOVT. NCT) OF DELHI
& ORS.

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Through: Mr. Sunil Kumar

APP for the St

Sachin Pan

Fatehpur Beri.

R-2 and R-3 in

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN
ORDER

% 13.08.2024

1. The present petition is filed seeking quashing of FIR No. 217/2020 dated 02.08.2020, registered at Police Station Fatehpur Beri, for offences under Sections 308/ 452/ 354/ 509/ 186/ 353/ 332/ 34 of the Indian Penal Code, 1860 ('IPC'), including all consequential proceedings arising therefrom. The said FIR was registered on a complaint filed by Respondent No. 2.

2. Charge sheet has been filed in the present case for offences under Sections 509/186/353/332/34/323/308/452/354 of the IPC against Petitioner No. 1 and under Sections 308/509/34 against Petitioner No. 2.

3. It is alleged that on 01.06.2020 at about 11:00 AM, 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 06/09/2024 at 20:58:48 Respondent No. 2 came to her house from her duty and saw that the petitioners were consuming liquor in front of her house in vacant place. She objected to the same, consequent to which she was hit with iron Tava and Petitioner No. 2 also assaulted her. Thereafter, she called Respondent No. 3

(Beat Const. Ravi Raj) and informed him about the incident as 100 PCR call was not being connected. Respondent No. 3 was in the locality at that time and came to her house, after which the petitioners also had a scuffle with Respondent No. 3.

4. It is stated that Petitioner No. 1 is the neighbour of Respondent No. 2 and Petitioner No. 2 is the husband of Respondent No. 2.

5. The present petition is filed on the ground that the matter is amicably settled between the parties by way of Compromise Deed dated 25.07.2024, on their own free will, without any pressure, force, coercion and inducement.

6. The parties are present before this Court in person and have been duly identified by the Investigating Officer.

7. Respondent No. 2 and Respondent No. 3 were allegedly injured during the scuffle.

8. On being asked, both the respondents state that they do not wish to pursue any proceeding arising out of the present FIR and have no objection if the proceedings arising out of the present FIR are quashed.

9. Respondent No. 2 states that she has forgiven the petitioners since the alleged incident happened as the petitioners had consumed alcohol and were in an inebriated state. The complainant states that the petitioners have since realized their mistake and have also unconditionally apologized for their This is a digitally signed order.

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10. The petitioners undertake that they will not indulge into any such activity in future.

11. Offences under Section 509/323 of the IPC are compoundable whereas offences under Sections 308/452/354/186/353/332 of the IPC are non-compoundable.

12. It is well settled that the High Court while exercising its powers under Section 482 of the Code of Criminal Procedure, 1973 ('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 the case of Narinder Singh & Ors. v. State of Punjab & Anr. : (2014) 6 SCC 466, the Hon'ble Supreme Court had 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.

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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."

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13. Similarly, in the case of Parbatbhai Aahir & Ors. v. State of Gujarat & Anr. : (2017) 9 SCC 641, the Hon'ble Supreme Court had 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 This is a digitally signed order.

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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 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 06/09/2024 at 20:58:50 or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance."

(emphasis supplied)

14. In the present case, Respondent Nos.2 and 3 have stated that they do not wish to pursue the proceedings arising out of the present FIR. Respondent No.2 has stated that she has no remaining grievance against the petitioners and that she is satisfied with their unconditional apology. In the peculiar circumstances of this case, it is unlikely that the present FIR will result in a conviction when Respondent Nos.2 and 3 do not wish to pursue the case. Petitioner No. 1 is the neighbour of Respondent No. 2 and Petitioner No. 2 is the husband of Respondent No. 2 and in such circumstances, continuation of the proceedings would only cause undue harassment and heartburn.

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 charge sheet has already been filed in the case arising out of the present FIR, and the State machinery has been put to motion, ends of justice would be served if the petitioners are put to cost.

17. In view of the above, FIR No. 217/2020 and all consequential proceedings arising therefrom are quashed, subject to payment of cost of 10,000/- by each petitioner, to be deposited with Delhi Police Welfare Society within a period of six weeks from the date.

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18. Let the proof of deposit of cost be furnished to the concerned SHO.

19. The present petition is allowed in the aforesaid terms. Pending application(s) also stand disposed of.

AMIT MAHAJAN, J AUGUST 13, 2024 / 'KDK' This is a digitally signed order.

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