

Kuldeep Singh & Anr vs The State Govt. Of Nct Of Delhi And Anr on 3 January, 2024

Author: Jyoti Singh

Bench: Jyoti Singh

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CRL.M.C. 18/2024
KULDEEP SINGH & ANR.

Through: Mr. H.S. Dubey and
Bajaj, Advocates along with

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THE STATE GOVT. OF NCT OF DELHI
AND ANR.

Through: Ms. Richa Dhawan,
with SI Rakesh, P.S. Swaro
Mr. Swapnil Aeron, Advocat
R-2 (through video confere

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH
ORDER

% 03.01.2024 CRL.M.A. 65/2024 (exemption)

1. Allowed, subject to all just exceptions.

2. Application stands disposed of.

CRL.M.C. 18/2024 & CRL.M.A. 66/2024 (stay)

3. This petition has been filed on behalf of the Petitioners under Section 482 seeking quashing of FIR No.15/2012 dated 25.01.2012 registered under Sections 420/467/468/471/120-B IPC at PS: Swaroop Nagar including proceedings emanating therefrom.

4. The Complainant/Respondent No. 2 made a complaint on 31.03.2011 against the Petitioners herein leading to registration of the present FIR. As per the case of the prosecution, Complainant's husband being a Doctor was planning to establish his own private nursing home at Delhi and was in 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 26/01/2024 at 21:14:59 search of a suitable land. In this context, Rajesh Kumar, his father Laxmi Narayan and Manmohan

Ghai contacted her and her husband in February, 2008 and offered a piece of land for sale, free from encumbrances, situated in village Ghari Khusro in Delhi. Kuldeep Singh and Surjit Singh showed documents of ownership of the land in question measuring 1 bigha out of Khasra No. 124 and on the same day, the Complainant was taken to the land in question for inspection. After a day or two, the Complainant and her husband were taken to the residence of Ranjit Ghai and later to his shop, where the deal was finalised at a rate of Rs.2,000/- per sq. yds. The sale consideration was to be paid at one go as the sellers were in need of money. Subsequently, a Patwari was also called from the office of SDM, Alipur to identify/demarcate the vacant agricultural land. Believing all the six persons and assuming that the documents were genuine, Complainant entered into an Agreement to Sell with Kuldeep Singh and Surjit Singh and paid Rs.20 lacs against four written receipts by way of cheques in favour of Kuldeep Singh and Surjit Singh. Various other documents such as power of attorney etc. were also executed and Laxmi Narayan signed as a witness on their behalf. However, later, when the Complainant visited the land with her husband to start construction, they learnt that the land was in possession of another party and had been mutated in the name of Dr. Mrs. Rama Luthra, a resident of Delhi. On contacting the accused, Complainant realised that a conspiracy has been hatched and she had been cheated for a tune of Rs.20 lacs.

5. Charge Sheet was filed in the court of learned Metropolitan Magistrate, North, Rohini Courts, Delhi, where both Petitioners were charge sheeted under Sections 420/467/468/471/120-B IPC and the matter is now fixed for arguments on charge on 25.01.2024. During the proceedings, the 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 26/01/2024 at 21:14:59 Court referred the matter to the Delhi Mediation Centre, Rohini Courts, Delhi, wherein Petitioners and Respondent No. 2 have settled all their inter se disputes amicably and a Settlement Agreement dated 05.10.2018 was executed. As per the terms of settlement, Petitioners agreed to compensate Respondent No.2 by paying a sum of Rs.12,00,000/- towards full and final settlement of all her claims and Respondent No.2 agreed to co-operate in quashing of the present FIR. It is stated in the petition that the total settlement amount of Rs.12,00,000/- has already been paid to Respondent No.2 and she has in turn sworn an affidavit giving no objection to the quashing of the present FIR, which is filed in support of the present petition. In view of the settlement, Petitioners urge that the FIR be quashed.

6. Issue notice.

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

8. Mr. Swapnil Aeron, learned counsel accepts notice on behalf of Respondent No.2.

9. Petitioners are present physically in Court while Respondent No.2 has joined virtually and all are identified by their respective counsels as well as the Investigating Officer SI Rakesh, P.S. Swaroop Nagar. Respondent No.2 submits that she has received a total sum of Rs.12,00,000/- from the Petitioners and does not want to pursue the complaint. Learned APP submits that since parties have

settled the matter, the final decision is left to the Court.

10. 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 This is a digitally signed order.

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"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 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 26/01/2024 at 21:15:00 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 predominatingly civil flavour stand on a different footing for the purposes 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 26/01/2024 at 21:15:00 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."

11. In *Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and Others v. State of Gujarat and Another*, (2017) 9 SCC 641, the Supreme Court reiterated the parameters for exercising inherent jurisdiction under Section 482 Cr.P.C. for quashing of FIR/criminal complaint and relevant passages are as follows:-

"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 This is a digitally signed order.

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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 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 or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance."

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12. It is a settled law that inherent powers under Section 482 Cr.P.C. are required to be exercised to secure the ends of justice and/or prevent abuse of the process of the Court. The Supreme Court in the case of Nikhil Merchant v. Central Bureau of Investigation and Another, (2008) 9 SCC 677, has observed that despite the ingredients and the factual content of an offence of cheating punishable

under Section 420 IPC, the same has been made compoundable under sub-section (2) of Section 320 Cr.P.C., with the leave of the Court. Of-course, forgery has not been included as one of the compoundable offences but it is in such cases that the principle enunciated in B.S. Joshi v. State of Haryana, (2003) 4 SCC 675, becomes relevant. Co- ordinate Benches of this Court in Harvinder Singh Tokas and Another v. State and Another, 2019 SCC OnLine Del 8523 and Karan Sharma v. State of NCT of Delhi and Another, 2023 SCC OnLine Del 875, have quashed FIRs under similar provisions predicated on amicable settlement between the parties.

13. From the conspectus of the aforesaid judgments, some of the principles that can be succinctly culled out for exercise of inherent powers under Section 482 Cr.P.C. are that the inherent jurisdiction is to prevent abuse of process of Court or to secure ends of justice as ends of justice are higher than ends of mere law, premised on the principle that inherent powers have been vested to do real, complete and substantial justice. This is of course not without a caveat that the Courts must steer clear of intervention in cases which involve heinous or serious offences involving mental depravity or economic offences and those which fall in the category of offences relating to murder, extortion, dacoity, cases under the Arms Act, 1959 etc. This is a digitally signed order.

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14. Since the parties have amicably resolved their disputes and terms of settlement have been complied with, whereby Respondent No. 2 has received a sum of Rs. 12 lacs, it would be in the interest of justice and to prevent abuse of the process of Court that the criminal proceedings are terminated as even otherwise in view of the stand of the Complainant, the chances of conviction will be remote and bleak. Accordingly, FIR No.15/2012 dated 25.01.2012 registered under Sections 420/467/468/471/120-B IPC at PS: Swaroop Nagar along with the Charge Sheet and proceedings emanating therefrom, is quashed.

15. Petition along with pending application stands disposed of in the aforesaid terms.

JYOTI SINGH, J JANUARY 03, 2024/kks/shivam This is a digitally signed order.

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