

Prof Dr Neelima Risbud And Ors vs State Govt Of Nct Of Delhi And Anr on 28 February, 2024

Author: Jyoti Singh

Bench: Jyoti Singh

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CRL.M.C. 1643/2024

PROF DR NEELIMA RISBUD AND ORS

Through: Mr. R.K. Singh, Ad
Petitioners No. 1 and 3 in
No. 2 (through VC).

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STATE GOVT OF NCT OF DELHI
AND ANR

Through: Mr. Digam Singh D
State with SI Murari Krish
Delhi.

Ms. Meera Kaura Patel, Ms.
Mr.Aditya Tripathi, Advoca
with Complainant in person
Victim in person (through

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

OR

% 28.02.2024 CRL.M.A. 6351/2024 (Exemption)

1. Allowed, subject to all just exceptions.

2. Application stands disposed of.

CRL.M.C. 1643/2024 & CRL.M.A. 6350/2024 (direction/stay)

3. This is a petition filed on behalf of the Petitioners under Section 482 Cr.P.C. seeking quashing of FIR No. 78/2013 dated 26.03.2013 under Sections 120B/176/201/202/336/337/338/511 IPC registered at PS: N.F. Colony, Delhi along with proceedings emanating therefrom. Charge Sheet has been filed.

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4. Petitioners No. 1 to 3 are former Dean of Studies, former Director and former acting Registrar, respectively of the School of Planning & Architecture, New Delhi. Respondent No. 2 is the Complainant in the present FIR and father of a former student of the Institute namely, Sh. Navin Kujur. Present case arises from a complaint by Respondent No. 2 regarding the ragging of his son.

5. As per the prosecution case, complaint was received from Respondent No. 2 on 12.09.2012 relating to ragging of his son, a student of B. Arch. (First Year), studying in the aforementioned Institute. Complaint was forwarded to NFC Police Station. First an FIR No. 328/2012 dated 30.12.2012 under Sections 323/341/506/34 IPC was registered at New Friends Colony Police Station against 07 students of the Institute. Later, on a private complaint under Section 156/200 Cr.P.C. another FIR No. 78/2013 under Sections 336/337/338/176/201/202/511/120B IPC was registered against Petitioners No. 1 to 3 on 26.03.2013.

6. It is stated that following a compromise between the Complainant and the accused students, the offences under the first FIR No. 328/2012 were compounded. Students rendered unconditional apology for the alleged acts of ragging and vide order dated 05.04.2018, they were acquitted by learned ACMM, South East, Saket Courts, Delhi. Petitioners No. 1 to 3 have challenged framing of charges against them under Sections 176/202 Cr.P.C. in the present FIR in CRL.M.C. 5078/2018, before this Court, which is pending. It is stated that during the pendency of the proceedings, Petitioners and Complainant have mutually resolved all their disputes and a Settlement Agreement was executed on 01.02.2024. Petitioners agreed to tender unconditional apology and compensate Respondent No. 2 for his pains and This is a digitally signed order.

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7. Issue notice.

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

9. Ms. Meera Kaura Patel, learned counsel accepts notice on behalf of Respondent No.2.

10. Petitioners and Respondent No. 2 are present and are identified by their respective counsels as well as the Investigating SI Murari Krishan, PS:

NFC. Respondent No. 2 states that amount of Rs. 2,50,000/- has been received by the Complainant and he has no objection to the FIR being quashed as the disputes have been amicably resolved and settled. Learned APP also has no objection to the quashing of the FIR, in view of the settlement between the parties.

11. 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 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:-

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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 29/03/2024 at 20:32:03 "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 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 This is a digitally signed order.

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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 predominately 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 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 This is a digitally signed order.

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12. The Supreme Court in Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and Others v. State of Gujarat and Another, (2017) 9 SCC 641, has 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 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 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 29/03/2024 at 20:32:03 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."

13. In *Ramgopal and Another v. State of Madhya Pradesh*, 2021 SCC OnLine SC 834, the Supreme Court observed 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.

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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 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."

14. Parties have mutually settled all their disputes and differences.

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15. Accordingly, FIR No. 78/2013 dated 26.03.2013 under Sections 120B/176/201/202/336/337/338/511 IPC registered at PS: N.F. Colony, Delhi is quashed including proceedings emanating therefrom.

16. Petition stands allowed and disposed of. Pending application also stands disposed of.

JYOTI SINGH, J FEBRUARY 28, 2024/shivam This is a digitally signed order.

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