

# Saroj & Ors vs The State Of Delhi & Ors on 10 March, 2021

Author: Yogesh Khanna

Bench: Yogesh Khanna

\$~1, 2 & 21(common order)  
\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
+ W.P.(CRL) 472/2021  
SAROJ & ORS .....  
Through: Mr. Himanshu Dagar, Mr. S  
& Mr. Harsh Singh, Advoca  
versus  
THE STATE OF DELHI & ORS .....  
Through: Mr.Amit Ahlawat,  
Ms.Kamna Vohra, ASC for t  
with ACP Vikas Shoeran, P  
Vihar, Insp. Sudhir Kumar  
Vihar.  
+ W.P.(CRL) 475/2021  
SANJANA GROVER & ORS .....  
Through: Mr. Sunil Dalal & Mr. Har  
Advocates.  
versus  
THE STATE OF DELHI & ORS .....  
Through: Mr.Amit Ahlawat,  
Ms.Kamna Vohra, ASC for t  
with ACP Vikas Shoeran, P  
Vihar, Insp. Sudhir Kumar  
Vihar.  
+ W.P.(CRL) 2174/2020  
SANJANA GROVER & ANR. .... P  
Through: Mr. Sunil Dalal & Mr. Har  
Advocates.  
versus  
THE STATE OF DELHI ..... R  
Through: Mr.Rajesh Mahajan, ASC fo  
with ACP Vikas Shoeran, P  
Vihar, Insp. Sudhir Kumar  
Vihar.  
CORAM:  
HON'BLE MR. JUSTICE YOGESH KHANNA  
ORDER

% 10.03.2021

1. These petitions are for quashing of FIR No.264/2020, under Section 323/354(B)/354/509/34 IPC, registered at P.S. Budh Vihar, the FIR No.261/2020 under Section 323/341/354/506/34 IPC, registered at P.S. Budh Vihar and the FIR No.290/2020, dated 08.11.2020 under Section 3(1)(s)/3(1)(r) SC and ST (Prevention of Atrocities) Act, 1989, registered at P.S. Budh Vihar.

2. All these FIRs pertain to an incident dated 01.10.2020 regarding a quarrel between the neighbours viz. the parties before this court in all the petitions herein. The party which got registered the first FIR viz. FIR No.261/2020, is also an author of FIR No.290/2020 dated 08.11.2020 under Section 3(1)(s)/3(1)(r) SC and ST ( Prevention of Atrocities) Act, 1989.

3. The injuries suffered by the parties were simple in nature. All the parties in the aforesaid FIRs have come together to settle their disputes vide the Settlement/MOU dated 16.10.2020 and they say they shall abide by the terms and conditions set forth in the said settlement deed.

4. All the parties viz. petitioners and respondents in the different petitions are before this court and are identified by the Investigating Officers concerned. None of the parties, being neighbours, intend to carry on with the proceedings of the present FIRs and as such they all say in terms of the settlement they are inclined to get the FIR quashed.

5. The learned ASC for State raised an objection only qua FIR No.290/2020 dated 08.11.2020 under Section 3(1)(s)/3(1)(r) SC and ST Act stating inter alia these offences are under the Special Statute, hence, should not quashed looking at its gravity. However, the learned counsel for the petitioner have referred to three judgements passed by this court, wherein offences under SC and ST ( Prevention of Atrocities) Act, 1989 were quashed.

6. In Kiran Bala Vs. State of Nct of Delhi & Anr. in CrI. M.C. No.909/2016 decided on 02.03.2016, the court held:-

6. Undisputedly, offence punishable under Sections 3(x) and 3(xi) of the SC & ST Act are non compoundable, however, considering the facts and circumstances of the case and in exercise of the inherent powers under Section 482 of the Code of Criminal Procedure, 1973, this Court has power to accept the compromise. This issue has been decided by the Constitution Bench of the Supreme Court in the case titled as Gian Singh Vs. State of Punjab and Another (2012) 2 SCC (L&S) 998 wherein held as under:

"61..... 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 an

power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and 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 serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like 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 pre-dominantly civil favour stand on 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, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put 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 wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

7. The aforesaid view has been affirmed by the Apex Court in the case of Narinder Singh & Ors. Vs. State of Punjab & Anr 2014 6 SCC 466 wherein held 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, 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.

29.6. Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used, etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

29.7. While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but

after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come to a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime."

9. As discussed above, offence punishable under Section 3(x) and 3(xi) of the SC & ST Act are non-compoundable being of serious nature, however, if the Court feels that continuation of criminal proceedings will be an exercise in futility and justice in this case demands that the dispute between the parties is put to an end and peace is restored, it can order for quashing of the FIR or criminal proceedings as it is the duty of the Court to prevent continuation of unnecessary judicial process.

7. Further, in Neeraj Bhati Vs. State of NCT of Delhi in CrI.M.C. 4423/2019, decided on 04.09.2019, the court quashed the FIR under Section 3(1) (x) of SC & ST Act. Further in Nazim & Ors. Vs. State of NCT of Delhi in CrI.M.C.2367/2020, the co-ordinate bench of this court on 03.12.2020 had quashed the FIR No.0446/2020, under Sections 3(1)(r)/3(1)(s) of SC & ST (Prevention of Atrocities) Act.

8. Applying the judgements above, since all the parties are neighbours and as they all submit the dispute occurred due to misunderstanding and it being personal in nature, hence in view of the compromise between the offenders and the victims, and the offence though being under the Special Statute but not of the like under Prevention of Corruption Act, and as argued the allegations under the Act being personal to the parties involved , and there being no possibility of conviction of the petitioners in any of these matters, hence, continuation of the criminal proceedings will be an exercise in futility and justice demands the disputes be put to an end and peace restored, hence there is no impediment in quashing of the FIR No.290/2020 dated 08.11.2020 under Section 3(1)(s)/3(1)(r) SC and ST Act, more so, when the accused in the present FIR have agreed to quash FIR in which they are complainants.

9. In view of the above, FIR No.264/2020, under Section 323/354(B)/354/509/34 IPC, registered at P.S. Budh Vihar, FIR No.261/2020 under Section 323/341/354/506/34 IPC, registered at P.S. Budh Vihar and FIR No.290/2020, under Sections 3(1)(s)/3(1)(r) SC and ST ( Prevention of Atrocities) Act, 1989, registered at P.S. Budh Vihar and proceedings emanating therefrom, all stand quashed. Pending application(s), if any, also stands disposed of.

YOGESH KHANNA, J.

MARCH 10, 2021 NEHA