

# Raj Kumar And Ors vs The State Nct Of Delhi And Anr on 8 May, 2024

**Author: Jyoti Singh**

**Bench: Jyoti Singh**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
+ CRL.M.C. 3692/2024

RAJ KUMAR AND ORS

Through: Mr. Nagendra Singh  
Sehgal, Advocates along with  
person.

THE STATE NCT OF DELHI AND ANR

Through: Mr. Yudhvir Singh  
State with SI Naveen, PS:  
R-2 in person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

% 08.05.2024 CRL.M.A. 14161/2024 (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. seeking quashing of FIR No. 227/2015 dated 25.03.2015 under Sections 308/34 IPC registered at PS: Anand Parbat including proceedings emanating therefrom. Charge Sheet has been filed under Sections 308/341/427/34 IPC.

4. Present FIR was registered on a complaint by Respondent No. 2 alleging that on the date of the incident at 11:50 PM when the complainant and his brother Ved Prakash were unloading the bricks which they had 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 31/05/2024 at 20:59:52 ordered from the truck, Raj Kumar and his two sons, one of whom is Arvind came and started abusing him, his mother and sister and obstructed in unloading the bricks. When complainant attempted to retaliate, Raj Kumar's son stopped him and then Raj Kumar caught hold of the complainant and his elder son Arvind shouted 'to hit with a rod'. Complainant's younger brother

Ved Prakash came to save him upon which Raj Kumar and his family members caught hold of him and Mahesh, a neighbour, hit his brother with a rod. The younger son hit the complainant's brother on his face, hands and back because of which he fell unconscious. During the fight, the assailants broke the glass of the scooter and truck standing nearby.

5. It is stated in the petition that Petitioners and Respondent No. 2 are residing in the same locality and are close neighbours. After the alleged incident, MLC was conducted and the nature of injuries was opined to be 'simple'. Charge sheet has been filed. Petitioner No. 1 has filed a cross-FIR bearing No. 228/2015 PS: Anand Parbat against Respondent No. 2 and accused Ved Prakash. However, in the meantime, with the intervention of family members and friends, parties have mutually settled their disputes and Respondent No. 2 has given his consent without force or coercion for quashing of the FIR and the charge sheet. He has also filed an affidavit giving No Objection in support of the petition.

6. Issue notice.

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

8. Petitioners and Respondent No. 2 are present in person and are identified by Investigating Officer SI Naveen, PS: Anand Parbat. Respondent No. 2 submits that he has no objection to the quashing of the FIR as all disputes are amicably settled. Learned APP also does not object This is a digitally signed order.

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9. 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:-

"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 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.

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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 31/05/2024 at 20:59:52 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 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."

10. 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 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 31/05/2024 at 20:59:52 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 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 This is a digitally signed order.

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11. 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 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."

12. Co-ordinate Benches of this Court in Govinda & Ors. v. State & Anr., Crl.M.C. 5547/2022, decided on 11.11.2022; and , Vikas Gaur & Ors. v. State Govt of NCT Delhi & Ors., Crl. M.C. 6426/2023, decided on 31.01.2024, have quashed FIRs registered under similar provisions, on the basis of settlements between the parties.

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13. Accordingly, FIR No. 227/2015 dated 25.03.2015 under Sections 308/34 IPC registered at PS: Anand Parbat is hereby quashed including proceedings emanating therefrom.

14. Petition is allowed and disposed of.

JYOTI SINGH, J MAY 08, 2024/kks/shivam This is a digitally signed order.

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