

V.S. Tomar vs The State Of Nct Of Delhi &Anr on 22 July, 2022

\$~53

*

+

IN THE HIGH COURT OF DELHI AT NEW DELHI

CRL.M.C. 3311/2022

V.S. TOMAR

Through:

Mr. Mahavir Singh and M
Panchajanya Batra, Advo
petitioner in person.

versus

THE STATE OF NCT OF DELHI &ANR.

Through:

Mr. NS Bajwa, APP with
Saigal with SI Ranbir,
Kunj.
Respondent no. 2 in per

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN
ORDER

% 22.07.2022

1. This petition is filed for quashing of FIR No. 316/2016 dated 18.04.2016 under Section 354/509 Indian Penal Code ("IPC"), registered at PS Vasant Kunj (South), Delhi and the proceedings emanating therefrom.

2. The present FIR was registered at the instance of respondent no. 2, who alleged that the petitioner, who is her neighbour teases her and misbehaves with her. She also alleged that even on the earlier occasions he had verbally assaulted her.

3. The complainant/respondent no. 2 is present in person and is duly identified by SI Ranbir. The complainant/respondent no. 2 states that the matter has been settled between the parties and she has no objection if this FIR is quashed.

4. Learned Additional Public Prosecutor for the State states that he also has no objection if the petition is allowed and FIR is quashed.

5. Section 354 of IPC is non-compoundable whereas Section 509 is a compoundable offence.

6. It is well settled that the High Court while exercising powers under Section 482, CrPC, can compound offences which are non-compoundable under CrPC 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 Courts exercising jurisdiction under Section 482 for quashing of proceedings on the ground of settlement. In Narinder Singh & Ors. V. State of Punjab & Anr. reported as (2014) 6 SCC 466, the Supreme Court has 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.

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."

7. Similarly, in *Parbatbhai Aahir & Ors v. State of Gujarat & Anr.* reported as (2017) 9 SCC 641, the Supreme Court has 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 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."

8. Considering the settlement between the parties this court feels that no useful purpose will be served by continuing the proceeding in the impugned FIR. It seems that the parties have settled all the disputes peacefully and want to live peacefully in future. It is also seen that the petitioner is 69 years of age and at this stage of his life especially when the parties have amicably settled, continuance of the proceedings would cause grave injustice.

9. The complainant/respondent no. 2 has also filed an affidavit dated 07.07.2022 which is annexed with the present petition stating that she has no objection if the present FIR is quashed.

10. Thus, the petition is allowed. Consequently, FIR No 316/2016 under Section 354/509 IPC, registered at PS Vasant Kunj (South), Delhi and all proceedings emanating therefrom are quashed. Pending application(s), if any, also stands disposed of.

AMIT MAHAJAN, J JULY 22, 2022 pa [Click here to check corrigendum](#), if any