

Deepak Kumar & Ors vs State & Anr on 23 April, 2024

Author: Navin Chawla

Bench: Navin Chawla

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CRL.M.C. 6029/2022
DEEPAK KUMAR & ORS.

..... Petition

Through: Mr.Aman Jain, Mr.Shiv Kumar,
Mr.Sauras Ghose, Advs. along
with petitioners present in
person.

versus

STATE & ANR.

Through:

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
ORDER

% 23.04.2024

1. This petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') seeking quashing of FIR No. 610/2021 registered at Police Station: Dwarka South, Dwarka District, Delhi under Sections 354/341/307/34 of the Indian Penal Code, 1860 (in short, 'IPC'), along with all other proceedings arising therefrom, on the basis of settlement.

2. The learned counsel for the petitioners submits that the subject FIR was an offshoot of the matrimonial discord between the parties, 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 25/04/2024 at 21:46:11 that is, the petitioner no.1 and the respondent no.2. He submits that the parties have amicably settled their inter se disputes and have entered into a settlement dated 16.03.2022 before the Mediation Centre, Dwarka Courts, New Delhi.

3. The respondent no.2, who is personally present in Court and has been duly identified by the Investigating Officer (IO), reaffirms the above-mentioned settlement and states that she has settled all the disputes with the petitioners out of her own free will and without any coercion. The respondent no.2 submits that she does not wish to pursue the proceedings emanating from the FIR any further and has no objection if the present FIR is quashed.

4. On the other hand, the learned APP opposes the present petition. She states that the charges alleged against the petitioners are grave in nature. They have been also substantiated by medical evidence.

5. I have perused the contents of the FIR and considered the submissions made.

6. In *Narinder Singh v. State of Punjab*, (2014) 6 SCC 466, the Supreme Court has explained the principles governing the powers of the High Court to quash or not to quash the proceedings on the basis of settlement in case of non-compoundable offence, 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 This is a digitally signed order.

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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 This is a digitally signed order.

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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/delicate 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 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 25/04/2024 at 21:46:11 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."

7. In *The State of Madhya Pradesh v. Laxmi Narayan*, (2019) 5 This is a digitally signed order.

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"15.4. Offences under Section 307 IPC and the Arms Act, etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act, etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. 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 framing 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/delicate parts of the body, nature of weapons used, etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after This is a digitally signed order.

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8. Keeping in view the fact that the disputes between the parties arose out of a matrimonial relationship, and now the same have been amicably settled, and also looking into the nature of the allegations made in the complaint, in my opinion, no useful purpose would be served in keeping the FIR alive. In fact, it would rather create further acrimony between the parties and will be an unnecessary burden on the State exchequer.

9. Guided by the principles enunciated by the Supreme Court in its judgments in *Narinder Singh* (Supra), *Laxmi Narayan* (Supra), *Jitendra Raghuvanshi v. Babita Raghuvanshi*, (2013) 4 SCC 58, *Gian Singh v. State of Punjab*, (2012) 10 SCC 303; *Parbatbhai Aahir @ Parbatbhai Bhimsinbhai Karmur & Ors. v. State of Gujarat & Ors.* (2017) 9 SCC 641; and, *State of Haryana & Ors. v. Bhajan Lal & Ors.* 1992 Supp (1) SCC 335, this Court deems it appropriate, in the interest of justice, to exercise its inherent powers under Section 482 of the Cr.P.C. to quash the FIR and all the proceedings emanating therefrom.

10. Accordingly, the petition is allowed. FIR No. 610/2021 registered at Police Station: Dwarka South, Dwarka District, Delhi This is a digitally signed order.

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NAVIN CHAWLA, J APRIL 23, 2024/rv/AS Click here to check corrigendum, if any This is a digitally signed order.

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