

# Shri Anant Mann Dahiya & Ors vs State & Ors on 5 February, 2024

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.M.C. 861/2024

SHRI ANANT MANN DAHIYA & ORS. .... Pe

Through: Mr. Kunal

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versus

STATE & ORS.

Through: Mr. Hemant

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HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% 05.02.2024

1. The present petition is filed seeking quashing of FIR No. 1022/2022 dated 28.11.2022, under Sections 406/420/467/468/471/506/120B of the Indian Penal Code, 1860, registered at Police Station Model Town.

2. It was alleged that Petitioner No. 1 had, on the basis of forged documents purchased the property belonging to Respondent No. 2.

3. The learned counsel for the petitioners submits that the Petitioner No. 1 had bought the property by virtue of a registered sale deed from one Virender Singh, who has since expired. Virender Singh had purchased the property from Ranbeer Singh, who was holding a valid Power of Attorney from father of the complainant.

4. The present petition has been filed on the ground that the parties have voluntarily and amicably resolved their disputes of 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 07/02/2024 at 21:42:27 their own free will and volition, by way of Settlement Agreement dated 22.11.2023.

5. The learned counsel for the petitioners submits that the complainant had also instituted a civil suit, however, the same has also been withdrawn pursuant to the settlement arrived at between the parties.
6. He submits that the terms of the settlement have already been complied with and that two floors have been constructed on the said property and given to the complainant pursuant to the settlement.
7. The learned Additional Public Prosecutor for the State opposes the grant of any relief to the parties. He submits that in the present case, the documents were forged for the purpose of sale and purchase of the property.
8. It is submitted that the complainant was claiming the property by virtue of a will.
9. The complainant is present in person. On being asked, he states that the present complaint was given on a misunderstanding, however, the parties have already settled their disputes, and he does not wish to pursue the proceedings arising out of the present FIR.
10. Offences under Sections 467/468/471/120B of IPC are non-compoundable whereas offences under Sections 406/420/506 of IPC are compoundable.
11. It is well settled that the High Court while exercising powers under Section 482 of the 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 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 07/02/2024 at 21:42:27 482 for quashing of proceedings on the ground of settlement. In *Narinder Singh & Ors. V. State of Punjab & Anr.* : (2014) 6 SCC 466, the Hon'ble Apex 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 law.

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. 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."

(emphasis supplied)

12. Similarly, in the case of Parbatbhai Aahir & Ors v. State of Gujarat & Anr. : (2017) 9 SCC 641, the Hon'ble Apex 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 This is a digitally signed order.

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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."

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13. It is not in doubt that the FIR, which discloses punishable offence of serious nature, ought not to be quashed even if parties have settled their disputes. However, in the present case, the investigation is at a nascent stage and the complainant, who claims title over the property does not wish to pursue any proceedings arising out of the present FIR.

14. It is seen that in terms of the settlement, third party rights have also been created in the property, and the complainant and the accused person, have pursuant to the settlement, sold some part of the property to a subsequent purchaser being Rajat Gupta and the money received as consideration is taken by the complainant.

15. Considering the aforesaid facts, this Court is of the opinion that no purpose would be served by keeping the disputes alive, and continuance of the proceedings would amount to abuse of the process of Court. I am of the considered opinion that it is a fit case where discretionary jurisdiction can be exercised and the proceedings be quashed.

16. However, keeping in mind the fact that the State machinery has been put to motion, ends of justice would be served if the parties are put to cost.

17. In view of the above, FIR No.1022/2022 and all consequential proceedings arising therefrom are quashed, subject to payment of cost of 20,000/-, to be deposited by the petitioners with the Delhi Police Welfare Fund, within a period of four weeks from today.

AMIT MAHAJAN, J FEBRUARY 5, 2024 'KDK' This is a digitally signed order.

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