

Sunny Singh & Ors vs The State (Govt Of Nct Of Delhi) & Ors on 1 March, 2024

Author: Jyoti Singh

Bench: Jyoti Singh

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IN THE HIGH COURT OF DELHI AT NEW DELHI

CRL.M.C. 122/2024

SUNNY SINGH & ORS.

Through:

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THE STATE (GOVT OF NCT OF DELHI) & ORS..

Through: Mr. Digam Singh

Mayank Istwal, P

State.

Mr. R.P.S. Bhatt

Respondents No.2

Respondents No.

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CRL.M.C. 149/2024

ANUP SINGH @ DANDI & ORS.

Through: Mr. R.P.S. Bhatti,

Petitioners in per

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THE STATE (GOVT OF NCT OF DELHI) & ORS..

Through: Mr. Digam Singh D

Mayank Istwal, PS

State.

Mr. K.P. Singh, A

Respondents No.2

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CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

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1. CRL.M.C. 122/2024 filed on behalf of the Petitioners under Section 482 Cr.P.C. seeking quashing of FIR No.618/2014 dated 11.07.2014 registered under Sections 323/324/356/354/452/506/34 IPC at PS:

Kalyanpuri.

2. Case of the prosecution is that on 15.02.2014, a complaint was received from PXXX stating that when she was sitting at her home, Petitioners along with some other persons entered her house and attacked her with a knife due to which she sustained injuries on her hand. Her sister-

in-law who lives on the upper floor rushed down to intervene and prevent further injuries to PXXX but in the process, she also sustained injuries on her hand. The accused also broke PXXX's gold chain leading to the filing of the complaint and registration of the present FIR. MLCs were conducted and the nature of injuries in both MLCs were opined to be simple.

3. CRL.M.C. 149/2024 filed on behalf of the Petitioners under Section 482 Cr.P.C. seeking quashing of FIR No. 835/2014 dated 11.09.2014 registered under Sections 323/341/308/354B/34 IPC at PS: Kalyanpuri.

4. Case of the prosecution is that on 11.09.2014, a complaint was received at PS: Kalyanpuri in which the Complainant Sunny alleged that on 26.01.2014, PXXX herself tore her clothes and falsely implicated the Petitioner's brother Prince. On 15.02.2014 at about 03:30 PM, when Complainant Sunny was alone at home, PXXX along with GXXX and other persons came to his house, and everyone started beating Sunny. On hearing loud noises, Sunny's mother, grandmother and sister came to his rescue, however, the assailants did not stop the beating and they also hit Sunny's relatives who had come to save him. During investigation, MLCs were collected in which the injuries on the victims were opined to be 'simple'.

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5. It is stated in the petition that parties are closely related and are also neighbours. In order to maintain cordial relationships, parties have settled the disputes with the intervention of family and friends and to put a quietus to the litigation, a Compromise Deed has been executed on 26.09.2023, copy of which has been filed on record.

6. Petitioners and Complainants in the respective petitions are present in Court and are identified by the Investigating Officer SI Mayank Istwal, PS:

Kalyanpuri. Complainants submit that in view of the settlement between the parties and to maintain peace and harmony, they have no objection to the FIRs being quashed while learned APP leaves the decision to the Court.

7. Supreme Court in *Gian Singh v. State of Punjab and Another*, (2012) 10 SCC 303, observed that while dealing with the issue of quashing of an FIR where the parties enter into amicable resolution of disputes, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceedings despite a compromise between the victim and the wrong doer and if the answer to the question is in the affirmative, the High Court would be within its jurisdiction to quash the criminal proceedings. Relevant paragraphs 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 iustitiae* is inbuilt in such exercise; the whole idea is to do real, complete 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 29/03/2024 at 20:42:23 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 been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like

murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.

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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 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 29/03/2024 at 20:42:24 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. 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.

8. In a later judgment in the case of Narinder Singh and Others v. State of Punjab and Another, (2014) 6 SCC 466, the Supreme Court reiterated the proposition and relevant paragraphs are as follows:-

"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 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 29/03/2024 at 20:42:24 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."

9. There is no doubt on the proposition that the inherent powers of a High Court under Section 482 Cr.P.C. should be exercised sparingly and with great caution. Needless to state that only when the Court comes to a conclusion from the facts and circumstances of the case that continuing the criminal proceedings would result in injustice or would manifest in abuse of the process of the Court, that it would exercise the inherent power and quash the proceedings and not otherwise. This is so held by the Supreme Court in the case of State of Maharashtra through CBI v. Vikram Anantrai Doshi and Others, (2014) 15 SCC 29 and in the case of Inder Mohan Goswami and Another v. State of Uttaranchal and Others, (2007) 12 SCC 1. It is thus equally well settled that in a case where the High Court is convinced that the alleged offences are personal in nature and do not affect public peace or tranquility and that quashing of the proceedings on the basis of a 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 29/03/2024 at 20:42:24 compromise or settlement would secure the ends of justice, it should exercise the power to quash the proceedings. Looked at from another angle, in such cases, even pursuing prosecution would be sheer waste of time and energy.

10. It is true that some of the offences mentioned in the FIRs are non- compoundable offence, however, in the case of B.S. Joshi v. State of Haryana, (2003) 4 SCC 675, the Supreme Court has observed that even though provisions of Section 320 Cr.P.C. would not apply to offences which are non-compoundable, it does not limit or affect the powers under Section 482 Cr.P.C. The Court held that if for the purpose of securing the ends of justice quashing of FIR becomes necessary, Section 320 Cr.P.C. would not be a bar to the exercise of such power.

11. In view of the facts and circumstances of the case and considering that the parties are neighbours and also related and they have amicably resolved their disputes it would be in the interest of justice if the criminal proceedings are terminated as the complainants take a categorical position that they do not want to pursue with the complaint. No purpose will be achieved in continuing the proceedings as the chances of conviction even after a long trial are bleak and remote and therefore the proceedings would be an abuse of the process of Court and an unnecessary burden on the State machinery. This Court is fortified in its view by the judgments of this Court in Jatinder Khurana and Ors. v. State (NCT of Delhi) and Ors., CRL.M.C. 3446/2019, decided on 19.07.2019 and Sonu Yadav and Ors. v. The State (NCT of Delhi) and Anr., CRL.M.C. 2911/2021, decided on 16.02.2022, where the Courts have quashed FIRs under similar provisions, predicated on settlement between the parties, in the interest of justice.

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12. Hence, FIR No.618/2014 dated 11.07.2014 under Sections 323/324/356/354/452/506/34 IPC registered at PS: Kalyanpuri and FIR No. 835/2014 dated 11.09.2014 under Sections 323/341/308/354B/34 IPC registered at PS: Kalyanpuri, are hereby quashed including proceedings emanating therefrom.

13. Petitions stand disposed of.

JYOTI SINGH, J MARCH 01, 2024 B.S. Rohella This is a digitally signed order.

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