

Jitesh Nagar & Ors vs Govt. Of Nct Of Delhi And Anr on 12 July, 2022

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IN THE HIGH COURT OF DELHI AT NEW DELHI

CRL.M.C. 1487/2022

JITESH NAGAR & ORS.

Through:

Mr. Kartik Kumar, Adv.
all the petitioners.

versus

GOVT. OF NCT OF DELHI AND ANR.

..... Respondent

Through: Mr. K.K. Ghei, Addl. PP for Stat
IO SI Monika Singh, PS K.N.K. Ma
Mr. Pujya Kumar Singh, Adv. along
with R-2

CORAM:

HON'BLE MS. JUSTICE POONAM A. BAMBA
ORDER

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12.07.2022

1.0 This is a petition filed under Section 482 of Cr.PC for
FIR No. 111/2017, dated 05.03.2017, un

376D/377/354(B)/509/506/323/34 Indian Penal Code, 1860, PS K.N.Katju Marg and all consequential proceedings emanating therefrom.

2.0 Respondent no. 2 is present in person and is identified by the IO.

3.0 Petitioners submit that misunderstanding with the respondent no. 2 has now been resolved and a settlement has been arrived at between the petitioners and the respondent no. 2. Memorandum of understanding/ settlement has been filed as Annexure P4.

3.1 It is also submitted that vide the above settlement, it was agreed to pay a total sum of Rs.7 lacs towards full and final settlement of all the claims of the respondent no. 2 towards stridhan, dowry and maintenance (past, present and future).

3.2 It is further submitted that out of the said amount, a sum of Rs.3 lacs has already been paid and balance amount of Rs.4 lacs has been paid to the respondent no. 2 today vide Demand Draft bearing no. 552702, dated 06.07.2022, for a sum of Rs.4 lacs.

3.3 Respondent no. 2 admits that she has received a total sum of Rs.7 lacs. She also submits that due to misunderstanding and misguidance the present FIR came to be registered at her instance; she has already filed an affidavit giving her no objection to the quashing of the aforesaid FIR.

3.4 Respondent no. 2's affidavit has been filed as Annexure A-3 along with the present petition, wherein, she has stated that due to some misunderstanding, she has lodged the complaint mentioning facts stated therein. She has also detailed the settlement arrived at by her with the petitioners herein before Ld. Judge Family Courts, West District, Tis Hazari Courts, Delhi. She further states that she, out of her own will and without any kind of threat, coercion or influence from any side, has arrived at settlement with the petitioner; and is now left with no claims or grievance against the petitioners.

4.0 It is a settled position of law that section 482 Cr.PC confers inherent powers on this Court to prevent abuse of process of law and to secure ends of justice. Scope of inherent powers of High Court under Section 482 Cr.P.C particularly, with respect to the non compoundable offences, came for examination before three Judge Bench of the Hon'ble Supreme Court in Gian Singh (supra). The Supreme Court in paras 47, 48, 49, 50, 51, 52 & 54 observed as under -

47. Section 320 of the Code articulates public policy with regard to the compounding of offences. It catalogues the offences punishable under IPC which may be compounded by the parties without permission of the Court and the composition of certain offences with the permission of the court.
.....

48. The question is with regard to the inherent power of the High Court in quashing the criminal proceedings against an offender who has settled his dispute with the victim of the crime but the crime in which he is allegedly involved is not compoundable under Section 320 of the Code.

49. Section 482 of the Code, as its very language suggests, saves the inherent power of the High Court which it has by virtue of it being a superior court to prevent abuse of the process of any court or otherwise to secure the ends of justice. It begins with the words, „nothing in this Code' which means that the provision is an overriding provision. These words leave no manner of doubt that none of the provisions of the Code limits or restricts the inherent power. The guideline for exercise of such power is provided in Section 482 itself i.e., to prevent abuse of the process of any court or otherwise to secure the ends of justice. It is equally well settled that the power is not to be resorted to if there is specific provision in the Code for the redress of the grievance of an aggrieved party. It should be exercised very sparingly and it should not be exercised as against the express bar of law engrafted in any other provision of the Code.

50. In different situations, the inherent power may be exercised in different ways to achieve its ultimate objective. Formation of opinion by the High Court before it exercises inherent power under Section 482 on either of the twin objectives, (i) to prevent abuse of the process of any court or (ii) to secure the ends of justice, is a sine qua non.

51. 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.

52. It needs no emphasis that exercise of inherent power by the High Court would entirely depend on the facts and circumstances of each case. It is neither permissible nor proper for the court to provide a straitjacket formula regulating the exercise of inherent powers under Section 482. No precise and inflexible guidelines can also be provided.

53.

54. Where High Court quashes a criminal proceeding having regard to the fact that dispute between the offender and victim has been settled although 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 wrong doing that seriously endangers and threatens well-being of 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 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 Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between offender and 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 victim and the offender and 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 F.I.R if it is satisfied that on the face of such settlement, there is hardly any likelihood of 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.

5.0 Thus, this court has ample power under Section 482 Cr.P.C to quash the FIR even in respect of offences which are not compoundable to secure the ends of justice and to do complete and substantial justice.

5.1 The Coordinate Bench of this Court in Kundan & Anr. Case (supra) vide its judgment dated 21.02.2022 quashed an FIR under Sections 363/366/367 IPC and Section 6 of POCSO Act referring to the judgment of Hon ble Supreme Court in Gian Singh case (supra).

6.0 No doubt, this court needs to exercise care and caution while quashing of FIR under Sections 376D/377/354(B)/509/506/323/34 of IPC. However, considering the peculiar facts and circumstances of this case, where the respondent no. 2 has stated that due to certain misunderstandings and misguidance, she had lodged the complaint mentioning facts as stated therein; and now that the misunderstandings have been cleared and she has settled voluntarily with the petitioners, this court is of the considered opinion that quashing of FIR would only further the ends of justice and would give quietus to the matter. Continuation of criminal proceedings under the aforesaid FIR may only be an exercise in futility.

7.0 Ld. Addl. Prosecutor submits that although the charge-sheet in the matter has been filed and charge has been framed under all the sections, but testimony of the witnesses has not been recorded as yet. However, in view of statement made by the respondent no.2 about misguided averment of facts in the complaint, this court, if thought fit, may quash the FIR in view of the settlement arrived at between the parties.

8.0 In view of the above facts and circumstances/settlement between the parties, no purpose would be served by continuing with the criminal proceedings as it would only be a waste of precious judicial time. Quashing of the FIR would rather further the ends of justice.

9.0 Thus, the present of FIR No. 111/2017, dated 05.03.2017, under Sections 376D/377/354(B)/509/506/323/34 Indian Penal Code, 1860, PS K.N.Katju Marg and all consequential proceedings emanating therefrom are hereby quashed.

10.0 The present petition is disposed of accordingly.

11.0 All pending applications are closed.

POONAM A. BAMBA, J JULY 12, 2022/manju Click here to check corrigendum, if any