

Inder Malik vs State Of Nct Of Delhi & Anr on 4 March, 2024

Author: Jyoti Singh

Bench: Jyoti Singh

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CRL.M.C. 1790/2024
INDER MALIK

STATE OF NCT OF DELHI & ANR.

Through: Ms. Richa Dhawan,
with SI Shajid Hussain, PS
Respondent No. 2 in person

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

% 04.03.2024 CRL.M.A. 6832/2024 (Exemption)

1. Allowed, subject to all just exceptions.

2. Application stands disposed of.

3. This petition has been filed by the Petitioner under Section 482 Cr.P.C. for quashing of FIR No. 520/2021 dated 07.09.2021 registered under Sections 420/406/468/471/120B/34 IPC at PS: Malviya Nagar including the proceedings emanating therefrom.

4. As per the case of the prosecution, Complainant Sunder Lal Gupta filed a complaint on 28.12.2020 alleging that the accused Karan Singh who was known to the Complainant since many years and was a property dealer approached the Complainant and induced him into investing money in 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 20:53:42 alternative plots or those plots which were about to be given to the farmers in lieu of their acquired lands. Portraying a rosy picture of earning huge profits through these investments, the accused allured the Complainant into investing in some of those plots and assured that he would manage the modalities including recommendations from the Land and Building Department of the DDA. The cheated amount as per the Complainant is about Rs.1 crore and 67 lacs, some of which was paid

through cheques and some in cash. After making payments when the documents were cross checked, Complainant realized that he had been cheated and having no option, filed a complaint, leading to registration of the present FIR.

5. Petitioner herein states that Karan Singh is his nephew, who was associated with him till 2015 but thereafter whatever transactions, the Complainant entered into with him were without his knowledge. It is further stated that Charge Sheet has been filed but Petitioner has been kept in Column No. 12. In the interregnum, disputes have been amicably settled between him and the Complainant and Complainant has filed an affidavit in support of the petition giving his 'No Objection' to the quashing of the FIR. Copy of the Settlement Agreement executed on 09.03.2022 has been placed on record. As per the settlement, Petitioner had agreed to pay a sum of Rs.74 lacs to the Complainant in full and final settlement of all his claims relating to the 03 transactions in question on receipt of which the Complainant shall withdraw all his complaints against all persons including Karan Singh. The settlement amount was payable in two installments of Rs.44 lacs and Rs.30 lacs each, in accordance with the terms of settlement. Affidavit has been filed by the Complainant stating that the matter has been settled and therefore, Complainant has no objection in quashing of the FIR.

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6. Issue notice.

7. Learned APP accepts notice on behalf of the State.

8. Respondent No. 2 is present in Court and accepts notice.

9. Parties are present in the Court and have been duly identified by the Investigating Officer SI Shajid Hussain, PS: Malviya Nagar. Respondent No. 2 submits that he has no objection to the quashing of the FIR qua the Petitioner as the matter is settled between the Petitioner and Respondent No. 2 and the settlement amount stands paid. Learned APP states that the State has no objection to the partial quashing of the FIR i.e. only qua the Petitioner herein, since matter has been settled and Petitioner is kept in Column No. 12 but this case should not be treated as a precedent.

10. The Supreme Court in *Gian Singh v. State of Punjab and Another*, (2012) 10 SCC 303, observed that while exercising inherent powers under Section 482 Cr.P.C. in respect of quashing of an FIR where parties have entered into amicable resolution of the disputes, one of the considerations would be whether it would be unfair or contrary to the interest of justice to continue the criminal proceedings despite the compromise and if the answer to the question is in the affirmative, the High Court would be well within its jurisdiction to quash the criminal proceedings, in order to ensure that the disputes are put to an end and peace is restored as securing the ends of justice is the ultimate guiding factor. This was of-course with a caveat that heinous and serious offences of mental

depravity or offences like murder, dacoity etc. cannot be fittingly quashed even though the victim or the victim's family settles the disputes with the offender. Relevant paragraphs of the judgment are as follows:-

"55. In the very nature of its constitution, it is the judicial obligation 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 20:53:43 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.

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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 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 predominately 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."

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11. 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 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."

12. It is a settled law that inherent powers under Section 482 Cr.P.C. are required to be exercised to secure the ends of justice and/or prevent abuse of the process of the Court. The Supreme Court in the case of *Nikhil Merchant v. Central Bureau of Investigation and Another*, (2008) 9 SCC 677, has observed that despite the ingredients and the factual content of an offence 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 20:53:43 cheating punishable under Section 420 IPC, the same has been made compoundable under sub-section (2) of Section 320 Cr.P.C., with the leave of the Court. Co-ordinate Benches of this Court in *Shri Madhu Sudan & Ors. v. State & Anr.*, CRL.M.C. 4008/2019, decided on 17.08.2023 and *Syed Sarfraz Ahmad @ Bablu v. State & Anr.*, CRL.M.C. 263/2022, decided on 05.04.2022, have quashed FIRs under similar provisions predicated on amicable settlement between the parties.

13. From the conspectus of the aforesaid judgments, some of the principles that can be succinctly culled out for exercise of inherent powers under Section 482 Cr.P.C. are that the inherent jurisdiction is to prevent abuse of process of Court or to secure ends of justice as ends of justice are higher than ends of mere law, premised on the principle that inherent powers have been vested to do real, complete and substantial justice. This is of course not without a caveat that the Courts must steer clear of intervention in cases which involve heinous or serious offences involving mental depravity or economic offences and those which fall in the category of offences relating to murder, extortion, dacoity, cases under the Arms Act, 1959 etc.

14. Complainant has settled the matter with the Petitioner and the terms of settlement have been complied with. Petitioner was kept in Column No. 12 when the Charge Sheet was filed. In the peculiar facts of this case, considering the stand of the Complainant, this Court is of the view that continuing the criminal proceedings will be a futile exercise and it will be in the interest of justice to put a closure qua the Petitioner.

15. Accordingly, the FIR No. 520/2021 dated 07.09.2021 registered under Sections 420/406/468/471/120B/34 IPC at PS: Malviya Nagar is quashed This is a digitally signed order.

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16. Petition stands disposed of in the aforesaid terms.

JYOTI SINGH, J MARCH 04, 2024/shivam This is a digitally signed order.

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