

Jitu & Anr vs State & Anr on 19 February, 2024

Author: Jyoti Singh

Bench: Jyoti Singh

\$~88, 94 & 95

* IN THE HIGH COURT OF DELHI AT NEW DELHI

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+ CRL.M.C. 1343/2024
JITU & ANR.

STATE & ANR.

94

+ W.P.(CRL) 572/2024
GAURAV ALIAS HARISH KUMAR & ANR. ...
Through: Mr. Shiv Charan Ga
Khan and Mr. Mihir, Advocat
Petitioners in person.

THE STATE & ANR.

Through: Mr. Sanjay Lao, S
State with SI Gourav Kumar
Mr. Sushant Kumar, Advocat
R-2 in person.

95

+ W.P.(CRL) 576/2024
GAURAV ALIAS HARISH KUMAR ...
Through: Mr. Shiv Charan Ga
Khan and Mr. Mihir, Advocat
Petitioner in person.

CRL.M.C. 1343/2024 and connected matters

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THE STATE GOVT. OF NCT OF DELHI AND ANR

Through: Mr. Sanjay Lao, St
State with SI Gourav Kumar,

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

OR

% 19.02.2024 CRL.M.A. 5270/2024 (exemption) in W.P.(CRL) 572/2024 CRL.M.A. 5288/2024 (exemption) in W.P.(CRL) 576/2024

1. Allowed, subject to all just exceptions.

2. Applications stand disposed of.

CRL.M.C. 1343/2024, W.P.(CRL) 572/2024 & W.P.(CRL) 576/2024

3. CRL.M.C. 1343/2024 has been filed on behalf of the Petitioners under Section 482 Cr.P.C. seeking quashing of FIR No. 58/2019 dated 24.04.2019 under Sections 323/341/34 IPC registered at PS: Roop Nagar along with proceedings emanating therefrom.

4. W.P.(CRL) 572/2024 has been filed on behalf of the Petitioners under Article 226 of the Constitution of India read with Section 482 Cr.P.C. seeking quashing of FIR No. 92/2019 dated 04.07.2019 under Sections 325/34 IPC registered at PS: Roop Nagar along with proceedings emanating therefrom.

5. W.P.(CRL) 576/2024 has been filed on behalf of the Petitioners under Article 226 of the Constitution of India read with Section 482 Cr.P.C. seeking quashing of FIR No. 311/2020 dated 06.11.2020 under Sections This is a digitally signed order.

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6. FIR No. 58/2019 was registered on the complaint of Harish Kumar who works as a Disc Jockey. On the night of 23.04.2019, Puneet who is Complainant's neighbour and regularly visits his house was being beaten up by his brother Kaku. When the Complainant intervened to save Puneet, Kaku's elder brothers Jitu and Vikas came to spot and started abusing the Complainant blaming him of spoiling Puneet's habits. They pushed the Complainant to the ground and started beating him due to which the Complainant suffered injuries on his palm and fingers. When the Complainant made noise and the neighbours gathered, Jitu and Vikas fled from the scene. Complainant's brother Sumit took him to the hospital where the MLC was conducted and subsequently, the present FIR was lodged.

7. FIR No. 92/2019 is a cross-FIR on a complaint made by Vikas who alleged that his younger brother Puneet was often visiting the house of the neighbour Harish Kumar and used to roam about

with him, which was disliked by the Complainant's family. On 23.04.2019 at about 11:45 PM, when Puneet was standing outside the house and Atul was scolding him for being in the company of Harish, accused Harish came on the spot and started fighting with Atul. During this argument, Complainant's mother also came at the spot to intervene and stop the argument. However, Harish pushed Complainant's mother due to which she fell down. In the meantime, Harish's brothers Amit and Nakku also came and both along with Harish started beating Complainant's brother Jitu resulting in injuries to the victims. MLC was done. While the MLC of Vikas revealed that the nature of injuries was grievous but the nature of injuries on Jitu was simple.

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8. FIR No. 311/2020 was registered on the complaint of Mrs. Prakash who alleged that her son Puneet was friends with their neighbour Harish. On 30.10.2020 evening, while Complainant was on the way back home, Harish started abusing her and ran behind her to kill her. He was in a drunken state. Complainant further alleged that in the same year, one day prior to Holi, he had similarly abused her and reached her house to kill her. Harish often threatens her and her children and therefore action be taken.

9. These petitions have been filed seeking quashing of FIRs predicated on a settlement between the parties. It is stated that Petitioners and Complainants are neighbours and in order to put a quietus to the litigations and bring about peace and harmony, family members, common friends and relatives intervened in the matter and all disputes have been resolved. Compromise Deeds have been executed between the parties incorporating the terms of settlements and copies have been filed along with the petitions.

10. Issue notice.

11. Learned Standing Counsel notice on behalf of the State.

12. Mr. Shiv Charan Garg, learned counsel accepts notice on behalf of Respondent No.2 in CRL.M.C. 1343/2024.

13. Mr. Sushant Kumar, learned counsel accepts notice on behalf of Respondent No.2 in W.P.(CRL) 572/2024 and W.P.(CRL) 576/2024.

14. Petitioners as well as Complainants are present in Court and are identified by their respective counsels as well as by the Investigating Officer SI Gourav Kumar, PS: Roop Nagar. Complainants state that they have no objection to the FIRs being quashed, as the parties have amicably resolved their disputes and do not want to pursue the criminal proceedings so that they live in harmony as they are neighbours. Learned Standing Counsel also 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 15/03/2024 at 20:47:57 has no objection to the quashing of the FIRs, in view of the settlement between the parties.

15. The 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 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 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 15/03/2024 at 20:47:57 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 predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, 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 15/03/2024 at 20:47:57 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."

16. In *Ramgopal and Another v. State of Madhya Pradesh*, 2021 SCC OnLine SC 834, the Supreme Court held as follows:-

"11. True it is that offences which are 'non-compoundable' cannot be compounded by a criminal court in purported exercise of its powers under Section 320 Cr.P.C. Any such attempt by the court would amount to alteration, addition and modification of Section 320 Cr.P.C, which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320 Cr.P.C., which may justify its wider interpretation and include such offences in the docket of 'compoundable' offences which have been consciously kept out as non-compoundable. Nevertheless, the limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 Cr.P.C. The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482 Cr.P.C. in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.

12. The High Court, therefore, having regard to the nature of the offence and the fact that parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under Section 482 Cr.P.C., even if the offences are non-compoundable. The High Court can indubitably evaluate the consequential effects of the offence 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 15/03/2024 at 20:47:57 beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyze the very object of the administration of criminal justice system.

13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are pre-dominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post-conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extra-ordinary power under Section 482 Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482 Cr.P.C. may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in *Narinder Singh v. State of Punjab*, (2014) 6 SCC 466 and *Laxmi Narayan* (Supra).

14. In other words, grave or serious offences or offences which involve moral turpitude or have a harmful effect on the social and moral fabric of the society or involve matters concerning public policy, cannot be construed betwixt two individuals or groups only, for such offences have the potential to impact the society at large. Effacing abominable offences through quashing process would not only send a wrong signal to the community but may also accord an undue benefit to unscrupulous habitual or professional offenders, who can secure a 'settlement' through duress, threats, social boycotts, bribes or other dubious means. It is well said that "let no guilty man escape, if it can be avoided."

17. In *State of Madhya Pradesh v. Laxmi Narayan and Others*, (2019) 5 SCC 688, the observations of the Supreme Court are as follows:-

"15.1. That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out 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 15/03/2024 at 20:47:58 commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2. Such power is not to be exercised in those prosecutions which involved 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;

15.3. Similarly, such power is not to be exercised for the offences under the special statutes 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;

15.4. xxx xxx xxx 15.5 While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise, etc."

18. In view of the observations of the Supreme Court in the aforementioned judgments, this Court finds no impediment in quashing the present FIRs as the parties have amicably resolved their disputes. Since Complainants categorically state that they do not wish to pursue the criminal proceedings, the chances of conviction are bleak and no purpose will be achieved even otherwise in continuing the proceedings. It would be in the interest of justice and to maintain peace and harmony between the parties to quash the present FIRs. This Court is fortified in its view by the decisions of this Court in *Arbaz v. State of NCT of Delhi and Ors.*, in CRL.M.C. 2044/2023 decided on 23.03.2023 and *Devi Singh and Ors. v. The State (NCT of Delhi) and Ors.*, in CRL.M.C. 8361/2023 decided on 16.11.2023 where the Courts have quashed FIRs under similar provisions, predicated on This is a digitally signed order.

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19. Accordingly, FIR No. 58/2019 dated 24.04.2019 under Sections 323/341/308/34 IPC registered at PS: Roop Nagar; FIR No. 92/2019 dated 04.07.2019 under Sections 325/34 IPC registered at PS: Roop Nagar and FIR No. 311/2020 dated 06.11.2020 under Sections 506/509 IPC registered at PS: Roop Nagar are quashed including proceedings emanating therefrom, subject to payment of costs of Rs.5,000/- each by the Petitioners in the three petitions. Costs will be deposited in favour of Armed Forces Battle Casualties Welfare Fund, Canara Bank, South Block, Defence Headquarters, New Delhi-110011, IFSC Code - CNRB0019055, Savings A/c No. 90552010165915 within eight weeks from today. Proof in support shall be filed with the Registry within one week thereafter and in case of failure to deposit the payments within the timelines specified by the Court, Registry shall list the petitions before the Court.

20. Petitions stand disposed of.

JYOTI SINGH, J FEBRUARY 19, 2024/kks This is a digitally signed order.

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