

(2016) 03 DEL CK 0072
In the Delhi High Court
Case No : CrI. M.C. 4312/2015

Dhruv Sheoran.

APPELLANT

Vs

State (NCT of Delhi) and Others

RESPONDENT

Date of Decision : 08-03-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, Section 482
Penal Code, 1860 (IPC) — Section 279, Section 338

Citation : (2016) 03 DEL CK 0072

Hon'ble Judges : P.S. Teji, J.

Bench : Single Bench

Advocate : Archit Upadhyay, Advocate, for the Appellant; Meenakshi Chauhan, Additional Public Prosecutor and Rampal, Sub-Inspector, for the Respondent

Final Decision : Allowed

Judgement

P.S. Teji, J.—1. The present petition under Section 482 Cr.P.C. has been filed by the petitioner, namely, Sh. Dhruv Sheoran for quashing of FIR No. 649/2014 dated 13.08.2014, under Sections 279/338 IPC registered at Police Station Safdarjung Enclave on the basis of the memorandum of understanding (MOU) arrived at between the petitioner and the respondent nos. 2 & 3, namely, Smt. Brijesh and Smt. Poonam, respectively on 27.07.2015.

2. Learned Additional Public Prosecutor for respondent-State submitted that the respondent Nos. 2 & 3, present in the Court have been identified to be the victims in the FIR in question by SI Rampal.

3. The factual matrix of the present case is that the complainant, namely, HC Satender Kumar lodged the FIR in question on the allegation that he received the DD No. 57 B dated 13.08.2014, that an accident took place at Raj Nagar flyover, when the petitioner was driving a white colour Maruti Ritz car, bearing No. PB 15 E 5007 and was coming from Dhaula Kuan and was going towards the Safdarjung hospital. When the petitioner reached the end of the bridge, the petitioner had collusion with Brijesh w/o Prem and Poonam w/o Bijender who

were crossing the road. Due to the accident, both the ladies got injured and they were admitted in the hospital by the petitioner.

The charge sheet was filed by the police against the petitioner. During the pendency of the investigation and after the filing of the charge sheet, with the intervention of well-wishers etc., the parties arrived at an amicable settlement.

4. Respondent Nos. 2 & 3 present in the Court, submitted that the dispute between the parties has been amicably resolved. As per the MOU, it is agreed that the petitioner shall pay a sum of Rs. 5,000/- to each of the respondent nos. 2 & 3 i.e. Rs. 10,000/- in toto for a full and final settlement and after this payment there shall be no claims and nothing shall be due from either sides in the future. It is also agreed that the respondent nos. 2 & 3 shall not file any claim(s) or/and shall not file any complaint(s) or/and shall not lodge FIR or/and shall not initiate any legal proceeding(s) against the petitioner in the future, as the respondent nos. 2 & 3 have come to this conclusion that there was no fault or carelessness or negligence(s) on the part of the petitioner. It is also agreed that the petitioner was not driving rashly at all. It is also agreed that both parties shall not misuse the MOU against each other in the future. Respondent nos. 2 & 3 affirmed the contents of the aforesaid settlement and of their individual affidavits dated 06.07.2015 supporting this petition. As per the affidavits filed by the respondent nos. 2 & 3, it has been stated that all disputes with the petitioner have been settled and that there exists no objection if the FIR in question is quashed. All the disputes and differences have been resolved through mutual consent. Now no dispute with petitioner survives and so, the proceedings arising out of the FIR in question be brought to an end. Statements of respondent nos. 2 & 3 have been recorded in this regard in which they stated that they have entered into a compromise with the petitioner and have settled all the disputes with him. They further stated that they have no objection if the FIR in question is quashed.

5. In *Gian Singh v. State of Punjab*, (2012) 10 SCC 303 Apex Court has recognized the need of amicable resolution of disputes in cases like the instant one, by observing as under:-

"61. 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 proceedings or continuation of criminal proceedings 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 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 proceedings."

6. The aforesaid dictum stands reiterated by the Apex Court in a recent judgment in *Narinder Singh v. State of Punjab*, (2014) 6 SCC 466. The relevant observations of the Apex Court in *Narinder Singh* (Supra) are 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 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.

7. The inherent powers of the High Court ought to be exercised to prevent the abuse of process of law and to secure the ends of justice. Respondent nos. 2 & 3 agreed to the quashing of the FIR in question and have stated that the matter has been settled out of their own free will. As the matter has been settled and compromised amicably, so, there would be an extraordinary delay in the process of law if the legal proceedings between the parties are carried on. So, this Court is of the considered opinion that this is a fit case to invoke the jurisdiction under Section 482 Cr.P.C. to prevent the abuse of process of law and to secure the ends of justice.

8. The incorporation of inherent power under Section 482 Cr.P.C. is meant to deal

with the situation in the absence of express provision of law to secure the ends of justice such as, where the process is abused or misused; where the ends of justice cannot be secured; where the process of law is used for unjust or unlawful object; to avoid the causing of harassment to any person by using the provision of Cr.P.C. or to avoid the delay of the legal process in the delivery of justice. Whereas, the inherent power is not to be exercised to circumvent the express provisions of law.

9. It is settled law that the inherent power of the High Court under Section 482 Cr.P.C. should be used sparingly. The Hon"ble Apex Court in the case of State of Maharashtra through CBI v. Vikram Anatrai Doshi and Ors. and in the case of Inder Singh Goswami v. State of Uttaranchal [] has observed that powers under Section 482 Cr.P.C. must be exercised sparingly, carefully and with great caution. Only when the Court comes to the conclusion that there would be manifest injustice or there would be abuse of the process of the Court if such power is not exercised, Court would quash the proceedings.

10. It is a well settled law that where the High Court is convinced that the offences are entirely personal in nature and therefore do not affect public peace or tranquillity and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, pursuing prosecution would be waste of time and energy. Non-compoundable offences are basically an obstruction in entering into compromise. In certain cases, the main offence is compoundable but the connected offences are not. In the case of B.S. Joshi and others v. State of Haryana and another , 2003 (4) SCC 675 the Hon"ble Apex Court observed that even though the provisions of Section 320 Cr.P.C. would not apply to such offences which are not compoundable, it did not limit or affect the powers under Section 482 Cr.P.C. The Hon"ble Apex Court laid down 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 power of quashing. In the nutshell, the Hon"ble Apex Court justified the exercise of powers under Section 482 Cr.P.C. to quash the proceedings to secure the ends of justice in view of the special facts and circumstances of the case, even where the offences were non-compoundable.

In the light of the aforesaid, this Court is of the view that notwithstanding the fact the offence under Section 279 IPC is a non- compoundable offence, there should be no impediment in quashing the FIR under this section, if the Court is otherwise satisfied that the facts and circumstances of the case so warrant.

11. In the facts and circumstances of this case and in view of statements made by the respondent nos. 2 & 3, the FIR in question warrants to be put to an end and proceedings emanating thereupon need to be quashed.

12. Accordingly, this petition is allowed and FIR No. 649/2014 dated 13.08.2014, under Sections 279/338 IPC registered at Police Station Safdarjung Enclave and

the proceedings emanating therefrom are quashed against the petitioner.

13. This petition is accordingly disposed of.