
(2024) 11 MP CK 1296

In the Madhya Pradesh High Court, Gwalior Bench

Case No : Miscellaneous Criminal Case No. 43192 of 2024

Ravindra Yadav

APPELLANT

Vs

The State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 27-11-2024

Acts Referred:

Code of Criminal Procedure 1973 — Section 161, 320, 482

Indian Penal Code 1860 — Section 120-B, 294, 420, 467, 468, 471, 506

Citation : (2024) 11 MP CK 1296

Hon'ble Judges : Rajendra Kumar Vani, J

Bench : Single Bench

Advocate : Navnidhi Parharya, Mohit Shivhare, Suhani Dhariwal, Rinku Shakya, Sushil Goswami, Ranjeet Singh

Final Decision : Dismissed

Judgement

Rajendra Kumar Vani, J

The Investigation Officer- Shri Upendra Dubey, Town Inspector of PS Indergarh, District Datia is present in person

2. Since both the petitions are arising out of same FIR, therefore, they are being decided by this common order.

3. These petitions, under Section 482 of Cr.P.C/528 of BNSS, have been filed for quashing the FIR bearing Crime No.322/2023 registered at Police Station-Bhander, District Datia for the offences punishable under Sections 420, 467, 468, 294, 506 of IPC, and all consequential proceedings arising out of it on the basis of compromise.

4. In M.Cr.C. No. 43192/2024, it is submitted by learned counsel for the petitioner that petitioner has entered into compromise with respondent No.2/ complainant Rajkishor. The statement of petitioner as well as respondent No.2 have been recorded before the Principal Registrar of this Court and after the verification, the report has been submitted. It is submitted that the statements

of witnesses did not reveal the name of present petitioner. It is also submitted that seven witnesses whose statements under Section 161 of Cr.P.C are attached with the supplementary challan filed against the petitioner have not been named in the witness list. No overt act of the petitioner is revealed from the supplementary challan filed by the prosecution. Therefore, prays for quashing of the FIR on the basis of compromise.

5. In M.Cr.C. No.37011/2024, it is submitted by the learned counsel for the petitioner that initially Badam Singh, Satish Rajput, Somil Singh Rajput and Raj Kishor had levelled allegations against present petitioner and they have entered into compromise with petitioner – Dusyant Yadav. Their statements have been recorded before the Principal Registrar of this Court and the report has been submitted. Compromise has been duly verified by the Principal Registrar. As far as other witnesses are concerned, they have been examined later on on 19.11.2024. The investigation is carried out in a faulty manner. Under these circumstances, he prays for quashment of the F.I.R. on the basis of compromise against the petitioner.

6. Counsel for petitioners have also relied upon the order dated 18.09.2024 passed by this Court in M.Cr.C. No.35880/2024 (Sandeep Singh Chouhan Vs. State of M.P.), order dated 24.09.2024 passed by this Court in M.Cr.C. No.15622/2024 (Badan Singh Shakya and others Vs. the State of M.P. & Others), order dated 06.08.2024 passed by the Coordinate Bench of this Court in M.Cr.C. No.32207/2024 (Ramkumra Inawati Vs. the State of Madhya Pradesh), order dated 06.08.2024 passed by the Coordinate Bench of this Court in M.Cr.C. No.32124/2024 (Ramkumra Inawati Vs. the State of Madhya Pradesh) and order dated 30.08.2024 passed by the Coordinate Bench of this Court in M.Cr.C. No.32213/2024 (Ramkumra Inawati Vs. the State of Madhya Pradesh).

7. Per contra, learned Public Prosecutor has opposed the prayer on the ground that the victims in this case are all those persons from whom account details/ bank kit have been received by the present petitioners and other co-accused and thereafter misused their bank accounts which reveals from the statements of other witnesses also which have been filed. Therefore, the victims Rohit @ Banti Prajapati, Bharat @ Vinay, Malkhan Ahirwar, Sunil Kumar Agarwal, Akash Prajapati, Kamendra Rajpoot, Ashish Rajpoot, Anand Rajpoot and Ajeet Singh Rajpoot have not filed compromise with the present petitioners. Moreover the investigation is going on. It is submitted by learned counsel for the State that five or six witnesses who have been examined by the learned Trial Court were not examined against petitioner – Ravindra Yadav. It is also submitted that supplementary challan is to be filed against him and thereafter the trial will start against him. It is also submitted that the witnesses in their police statements revealed the name of the present petitioners also. They have played active role in the incident. They along with other co-accused persons obtained the information from the complainant and other victims on the pretext of providing them unemployment allowance and misused the account for online gaming and

gambling. Under these circumstances, he prays for rejection of these petitions. In support of his contentions, learned counsel for the State has relied upon the judgments passed by the Hon'ble Supreme Court in the cases of Jagjeet Singh & Ors. Vs. Ashish Mishra @ Monu & Anr, passed in Cr.A. No.632/2022, Parbatbhai Aahir vs. State of Gujarat, (2017) 9 SCC 641 and State of M.P. Vs. Laxmi Narayan and Others 2019 (5) SCC 688.

8. In rebuttal, the learned counsel appearing on behalf of the petitioner Dusyant submits that the other witnesses whose statements have been recorded by the Police later on, are not the victims as petitioner has not misused their bank accounts. The investigation is carried out in a way to implicate other persons.

9. Heard learned counsel for the parties and perused the case diary as well as material available on record.

10. In Jagjeet Singh (Supra), the Hon'ble Apex Court has considered the term "victim". Para 21 of the judgment is as infra :

21. It is pertinent to mention that the legislature has thoughtfully given a wide and expansive meaning to the expression 'victim' which "means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression "victim" includes his or her guardian or legal heir".

11. In the case of Parbatbhai (Supra), Para 14 & 16 are relevant and are being reproduced as follows :

14. The same principle was followed in CBI v. Maninder Singh [CBI v. Maninder Singh, (2016) 1 SCC 389 : (2016) 1 SCC (Cri) 292] by a Bench of two learned Judges of this Court. In that case, the High Court had, in the exercise of its inherent power under Section 482 quashed proceedings under Sections 420, 467, 468 and 471 read with Section 120-B of the Penal Code. While allowing the appeal filed by the Central Bureau of Investigation Mr Justice Dipak Misra (as the learned Chief Justice then was) observed that the case involved allegations of forgery of documents to embezzle the funds of the bank. In such a situation, the fact that the dispute had been settled with the bank would not justify a recourse to the power under Section 482 : (SCC p. 394, para 17)

"17. ... In economic offences the Court must not only keep in view that money has been paid to the bank which has been defrauded but also the society at large. It is not a case of simple assault or a theft of a trivial amount; but the offence with which we are concerned was well planned and was committed with a deliberate design with an eye on personal profit regardless of consequence to the society at large. To quash the proceeding merely on the ground that the accused has settled the amount with the bank would be a misplaced sympathy. If the prosecution against the economic offenders are not allowed to continue, the entire community is aggrieved."

16. The broad principles which emerge from the precedents on the subject, may

be summarised in the following propositions:

16.1. Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court.

16.2. The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

16.3. In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.

16.4. While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised

(i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court.

16.5. The decision as to whether a complaint or first information report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated.

16.6. In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.

16.7. As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned.

16.8. Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the

dispute.

16.9. In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

16.10. There is yet an exception to the principle set out in propositions 16.8 and 16.9 above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.

12. In the case of *Laxmi Narayan (Supra)*, the Hon'ble Apex Court has observed that economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.". The Hon'ble Apex Court has also considered the situations in which quashment of non-compoundable offences are permissible. It is held that seriousness of crime and its social impact are key consideration. Non-application of mind by High Court in quashing the proceedings on sole ground that there was a compromise between accused and complainant held unwarranted. It is held that power of quashing is different from power of compounding. Quashing would depend upon facts and circumstances of each case. Court has to apply mind to following - (i) Whether crime against society or against individual alone and kind of dispute, whether civil or criminal, (ii) Seriousness, nature and category/kind of crime/offence and how committed, (iii) whether offence under special statute, (iv) stage of proceedings, (v) conduct and antecedents of accused, whether accused absconding, why absconding and how he managed to compromise with complainant.

13. Here in this case, it reveals from the case diary and documents filed before the Court that the initial charge-sheet has been filed against co-accused Arun and Rohit. Against present petitioners and other co-accused persons, the investigation is going on. During investigation, witnesses Mangal Kushwah, Ramnarayan Kushwah, Ajay Kumar Ahirwar, Dharmendra Kushwah, Deepak Joshi, Bharat @ Vinay Kushwah and Rohit @ Banti Kushwah have been examined. The investigating officer present before the Court also stated that there may be more than 30 victims in the present case and the investigation is being carried out to find out the other victims and to take their statements. As many as 12 victims have been found till date. The material also reflected that on mass level the present petitioners and other co-accused persons have opened the bank accounts of victims on the pretext of providing them unemployment

allowance and then obtained their bank details/bank kits. Thereafter they used that money kept in bank accounts for online gaming/gambling. The money obtained was deployed in various channels. The material in this regard is being collected during the investigation, hence, more facts are to be brought on record in this regard. In this situation, compromise by only one victim/complainant Rajkishor with petitioner Ravindra and by victim/complainant Rajkishor including some victims Badam Singh, Satish Rajput, Somil Singh Rajput with petitioner Dusyant may not be a basis for quashing entire FIR.

14. Looking to the entire facts and circumstances of the case as well as having due regard to the fact that the investigation in the present case is going on against co-accused persons including the present petitioners, in the considered opinion of this Court, it would not be in the fitness of things to quash the FIR partly looking to compromise applications. The judgments and orders which have been relied upon by learned counsel for petitioners are distinguishable on facts.

15. Keeping in view the law laid down in the aforesaid cases, in the considered opinion of this Court, it is not a fit case where the inherent powers of this Court under Section 482 of Cr.P.C./528 of BNSS may be invoked for quashing the FIR.

16. Accordingly, the petitions stand dismissed.