

**Mukesh Bansal Vs. State and anr**

**Mukesh Bansal Vs. State and anr**

**SooperKanoon Citation :** [sooperkanoon.com/1171094](http://sooperkanoon.com/1171094)

**Court :** Delhi

**Decided On :** Jul-16-2014

**Judge :** Sudershan Kumar Misra

**Appellant :** Mukesh Bansal

**Respondent :** State and anr

**Judgement :**

§~24 \* IN THE HIGH COURT OF DELHI AT NEW DELHI + CRL.M.C. 3070/2014  
MUKESH BANSAL Through: ..... Petitioner Ms. Shikha Pandey, Advocate with  
petitioner in person. versus STATE & ANR Through: ..... Respondents Mr. O.P.  
Saxena, APP for the State with SI Kuldeep PS Connaught Place. Mr. R.K.  
Handoo, Advocate for R-2 with R-2 in preson. CORAM: HON'BLE MR. JUSTICE  
SUDERSHAN KUMAR MISRA % SUDERSHAN KUMAR MISRA, J.

(ORAL) CrI. M.A. No.10618-19/2014 (for exemption) Exemptions, as prayed for,  
are allowed, subject to all just exceptions. The applications stand disposed off.  
CRL.M.C. 3070/2014 This petition has been moved by Mukesh Bansal under  
Section 482 Cr.P.C. praying that FIR No.92/2004 registered at Police Station  
Connaught Place, New Delhi under Sections 420/468/471 IPC, and the  
proceedings emanating therefrom, including the charge framed by the Trial Court  
against the petitioner under Section 465/408 IPC on 12 th November, 2013, be  
quashed. Issue notice. Mr. O.P. Saxena, Additional Public Prosecutor, and R.K.  
Handoo, Advocate, enter appearance and accept notice on behalf of State and

respondent No.2, respectively. Mr. R.K. Handoo, Advocate has handed over his vakalatnama in Court. The same is taken on record. Complainant is present in person. She states that looking to the overall circumstances and in view of the fact that the amount in question, which happened to be Rs.10,22,556/- which the petitioner was accused of having misappropriated in the year 2004, was also reimbursed in the year 2004 itself; and the fact that the petitioner, who is a qualified Chartered Accountant, appears to have expressed genuine remorse, and has also faced rigours of trial for about ten years; she does not wish to pursue the matter any further. Counsel for the State states that looking to the circumstances, specially where the complainant is not ready to support the prosecution case, no useful purpose will be served in continuing the proceedings any further. Under the circumstances and also in view of the decision of the Supreme Court rendered in Gian Singh v. State of Punjab, (2012) 10 SCC303 which has referred to a number of matters for the proposition that even a non-compoundable offence can also be quashed on the ground of a settlement agreement between the offender and the victim, if the circumstances so warrant; and also Narinder Singh and Ors. v. State of Punjab and Anr. 2014(2) Crimes 27 (SC) where the Supreme Court held as follows:

31. 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: (I) 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. (II) 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. (III) 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 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. (IV) On the other, those criminal cases having overwhelmingly and pre-dominantly 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. (V) While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases. (VI) Offences under Section 307 Indian Penal Code would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 Indian Penal Code in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 Indian Penal Code is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 Indian Penal Code. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is

going to result in harmony between them which may improve their future relationship. (VII) While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come a conclusion as to whether the offence under Section 307 Indian Penal Code is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 Indian Penal Code and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.

I am of the opinion that no useful purpose would be served in continuing the proceedings and the same deserve to be quashed. Accordingly, the petition is allowed and FIR No.92/2004 registered at Police Station Connaught Place, New Delhi under Sections 420/468/471 IPC and the proceedings emanating therefrom are hereby quashed, subject to the petitioner depositing Rs.75,000/- as costs with the Indigent & Disabled Lawyers Fund of Bar Council of Delhi. The petition stands disposed off. A photocopy of receipt of payment of costs to be filed before this Court as well as given to the Investigating Officer. The Registry to put up a report in this respect within three weeks from today. Dasti. SUDERSHAN KUMAR MISRA, J.

JULY16 2014 AK

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**