

Javed @ Naneh vs.the State & Ors

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SooperKanoon Citation : sooperkanoon.com/1204015

Court : Delhi

Decided On : Nov-03-2016

Appellant : Javed @ Naneh

Respondent : The State & Ors

Judgement :

* + IN THE HIGH COURT OF DELHI AT NEW DELHI CRL.M.C. 976/2016 JAVED @ NANEH Date of Decision: November 3rd, 2016

... Petitioner

Through Mr.Arun Sharma, Adv. versus THE STATE & ORS

... RESPONDENTS

Through Mr.M.P. Singh, APP for the State. SI Rishipal, PS Jama Masjid. Mr.Himanshu Choudhary, Adv. with Respondent no.3 in person. CORAM: HON'BLE MR. JUSTICE P.S.TEJI P.S.TEJI, J.

Learned Additional Public Prosecutor 1. The present petition under Section 482 Cr.P.C. has been filed by the petitioner, namely, Sh. Javed @ Naneh for quashing of FIR No.48/2011 dated 10.09.2011, under Section 3 IPC registered at Police Station Jama Masjid on the basis of the Compromise Deed executed between the petitioner and respondent no.3, namely, Sh. Mohd. Sajid on 30.03.2016.

2. respondent-State submitted that the respondent no.3, present in the Court has been identified to be the complainant/first-informant in the FIR in question by his counsel.

3. The factual matrix of the present case is on the allegation that that the accused person (petitioner herein) along with his friend gave the complainant Rs. 19 and asked him to buy a mobile phone recharge coupon amounting to the same. It is alleged by the complainant that when the complainant came back to the accused person informing him for CrI.M.C. 976/2016 Page 1 of 7 Respondent No.3, present in the Court, submitted that is agreed that the FIR in question was registered against about the non-availability of such coupon at the said shop, the accused person along with his friends started to beat the complainant. It is the case of the complainant that the accused took out a surgical blade and cut the left and right cheek of the complainant in the process of attack. Thereafter, the police was informed and a complaint was lodged the following which, accused. Later, parties arrived at an amicable settlement. the 4. dispute between the parties has been amicably resolved. As per the compromise deed, it is agreed that the petitioner has agreed to pay a sum of Rs.50,000/- to the respondent no.3. It the quashing petition with regard to the FIR in question shall be filed within a month from the date of the present compromise deed. It is agreed that the parties shall not file any case/complaint of any nature against each other with regard to this dispute in the future. Respondent No.3 affirmed the contents of the aforesaid settlement and of his affidavit dated 03.03.2016 supporting this petition. In the affidavit, he has stated that he has 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. Statement of the respondent no.3 has been recorded in this regard in which he stated that he has entered into a compromise with the petitioner and has settled all the disputes with him. He further stated that he has no objection if the FIR in question is quashed. CrI.M.C. 976/2016 Page 2 of 7 In Gian Singh v. State of Punjab (2012) 10 SCC303Apex 5. Court has recognized the need of amicable resolution of disputes in cases like the instant one, by observing as under:-

"continuation of to abuse of process of In other words, the High Court must consider 61. whether it would be unfair or contrary to the interest of justice to continue with the criminal proceedings criminal proceedings would or tantamount 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 SCC466 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. CrI.M.C. 976/2016 Page 3 of 7 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 commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves. arising those out of 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. The respondent no.3 agreed to the quashing of the FIR in question and stated that the matter has been settled out of his 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 CrI.M.C. 976/2016 Page 4 of 7 482 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 Honble Apex Court in the case of State of Maharashtra through CBI v. Vikram Anatrai Doshi and Ors. MANU/SC/0842/2014 and in the case of Inder Singh Goswami v. State of Uttaranchal MANU/SC/0808/2009 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 tranquility 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. Crl.M.C. 976/2016 Page 5 of 7 In certain cases, In the nutshell, In such cases, pursuing prosecution would be waste of time and energy. Non-compoundable offences are basically an obstruction in entering into compromise. 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) SCC675 the Honble 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 Honble 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. 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. the Honble Apex Court there should be no impediment In the light of the aforesaid, this Court is of the view that notwithstanding the fact that the offence under Section 326 IPC is a non-compoundable offence, 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 statement made by the respondent no.3, the FIR in question warrants to be put to an end and proceedings emanating thereupon need to be quashed. Crl.M.C. 976/2016 Page 6 of 7 12. Accordingly, this petition is allowed and FIR No.48/2011 dated 10.09.2011, under Section 3

IPC registered at Police Station Jama Masjid and the proceedings emanating therefrom are quashed against the petitioner.

13. This petition is accordingly disposed of. NOVEMBER03 2016 dd (P.S.TEJI) JUDGE Crl.M.C. 976/2016 Page 7 of 7