

Monu @ Navin & Anr vs.state & Anr

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Court : Delhi

Decided On : May-29-2017

Appellant : Monu @ Navin & Anr

Respondent : State & Anr

Judgement :

+ IN THE HIGH COURT OF DELHI AT NEW DELHI CRL.M.C. 2060/2017 Date of Hearing & Order: May 29th, 2017 MONU @ NAVIN & ANR

... Petitioner

Through: Mr. M.L. Yadav, Advocate versus STATE & ANR Respondent

Through: Mr. Panna Lal Sharma, Additional Public Prosecutor for the State with Sub-Inspector Hira Lal, Police Station Moti Nagar, Delhi CORAM: HON'BLE MR. JUSTICE P.S.TEJI P.S.TEJI, J.(Oral) 1. The present petition under Section 482 Cr.P.C. has been filed by the petitioners, namely, Monu @ Navin and Kuldeep Dabas for quashing of FIR No.13/2013, under Section 323/325/341/354/5 IPC registered at Police Station Moti Nagar, Delhi on the basis of a compromise between the petitioners and respondents No.2-7 namely, Anil Sharma, Sunil Sharma, Raj Rani, Kanishka, Harish Badri and Radhika Rawat respectively.

2. respondent-State submitted that the respondent no.2 present in the Court has been Learned Additional Public Prosecutor for Crl.M.C. 2060/2017 Page1 of 7 identified to be the complainant in the FIR in question.

3. The factual matrix of the present case is that the complainant alleged dispute with his neighbor over parking issue since the past 15- 20 days. On 16.01.2013 the complainant was standing in front of his house when suddenly the petitioner along with some of his friends reached there and made the complainant to fall and started beating him up. On seeing this, the neighbor of the complainant, Harish tried to save him but he was also given beatings by the aforesaid persons as a result of which Harish sustained multiple injuries. Thereafter, the wife and brother of the complainant (respondent no 4 and 3 respectively) also came out and the said persons made them to fall down too and gave them beatings. The petitioner hurled abuses at the complainants wife and daughter and intercepted their way when they tried to escape. The complainant after the above incident got registered the FIR in the present matter.

... RESPONDENTS

No.2-7 present in the Court submitted that the 4. dispute between the parties has been now resolved with the accused/petitioners. Respondent no.2 affirmed the contents of the aforesaid settlement. All the disputes and differences have been resolved through and now no dispute with petitioners survives and so, the proceedings arising out of the FIR in question may be brought to an end. Statements of the respondents no.2-7 have been recorded in this regard in which they all stated that they have entered into a settlement with the petitioners and have settled all the disputes with them. They further stated that they have no objection if the FIR in CrI.M.C. 2060/2017 Page2 of 7 question is quashed. 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 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 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, *Crl.M.C. 2060/2017 Page3 of 7* 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 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 *Crl.M.C. 2060/2017 Page4 of 7* 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 agreed to the quashing of the FIR in question and stated that the matter has been settled out of her 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. The incorporation of inherent power under Section 482 Cr.P.C.

8. 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 a 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 of Uttaranchal case Inder Singh Goswami of v. State CrI.M.C. 2060/2017 Page5 of 7 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. 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) SCC 675 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 justified the quashing. 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 the Honble Apex Court In certain cases, In the nutshell, Crl.M.C. 2060/2017 Page 6 of 7 and circumstances of the case, even where the offences were non- compoundable. impediment In the light of the aforesaid, this Court is of the view that there shall be no Section 323/325/341/354/5

IPC, if the Court is otherwise satisfied that the facts and circumstances of the case so warrant. quashing in the offence under In the facts and circumstances of this case and in view of 11. statements made by the respondents, the FIR in question warrants to be put to an end and proceedings emanating thereupon need to be quashed. this petition is allowed and FIR No.13/2013, 12. Accordingly, under Section 323/325/341/354/5

IPC registered at Police Station Moti Nagar, Delhi and the proceedings emanating therefrom are quashed against the petitioners.

13. This petition is accordingly disposed of. MAY 29 2017 pkb (P.S.TEJI) JUDGE Crl.M.C. 2060/2017 Page 7 of 7

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