

Subhash Kumar & Ors. Vs.state & Ors.

Subhash Kumar & Ors. Vs.state & Ors.

SooperKanoon Citation : sooperkanoon.com/1220601

Court : Delhi

Decided On : Jan-14-2019

Appellant : Subhash Kumar & Ors.

Respondent : State & Ors.

Judgement :

* + IN THE HIGH COURT OF DELHI AT NEW DELHI Date of Order: January 14, 2019 CRL.M.C. 141/2019 SUBHASH KUMAR & ORS.Petitioners Through: Mr. Ravinder Kumar, Advocate Versus STATE & ORS.Respondents Through: Mr. M.S. Oberoi, Additional Public Prosecutor for State with ASI Manveer, P.S. Gokul Puri, Delhi. Respondent Nos. 2 and 3 in person. CORAM: HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

(ORAL) Quashing of FIR No.298/16, under Sections 323/452/5

of IPC registered at police station Gokul Puri, Delhi is sought on the ground that the misunderstanding which led to registration of the FIR now stands cleared between the parties. Upon notice, learned Additional Public Prosecutor for respondent- State submits that respondent Nos.2 & 3, present in the Court, and they have been identified to be so by ASI Manveer on the basis of identity proof produced by them. Respondent Nos. 2 and 3, present in the Court, submits that the CRL. M.C. 141/2019 Page 1 of 4 dispute between the parties has been amicably resolved and the misunderstanding, which led to the incident in question, now stands cleared between the parties. Respondent Nos. 2 and 3 affirm the

contents of their affidavits of 4th January, 2019 supporting this petition and submit that now no dispute with petitioners survives and so, to restore the cordiality amongst the proceedings the parties, who are neighbours, arising out of the FIR in question be brought to an end. Supreme Court in Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Vs. State of Gujarat (2017) 9 SCC641 has reiterated the parameters for exercising inherent jurisdiction under Section 482 Cr.P.C. for quashing of FIR / criminal complaint, which are as under:-

"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. CRL. M.C. 141/2019 Page 2 of 4 such as murder, rape and dacoity 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 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. from 16.8. Criminal involving offences which arise commercial, 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 in 16.10. There is yet an exception to the principle set out 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 financial, mercantile, partnership cases or CRL. M.C. 141/2019 Page 3 of 4 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. In light of the aforesaid, I find that continuance of proceedings arising out of the FIR in question would be an exercise in futility as the misunderstanding, which led to registration of the FIR, now stands cleared between the parties. Accordingly, this petition is allowed subject to costs of `10,000/- to be deposited by petitioners with Prime Ministers Relief Fund within four weeks from today. Upon placing on record the receipt of cost, FIR No.298/16, under Sections 323/452/5 of IPC registered at police station Gokul Puri, Delhi and the proceedings emanating therefrom shall stand quashed. This petition is accordingly disposed of. Dasti. JANUARY14 2019 pma (SUNIL GAUR) JUDGE CRL. M.C. 141/2019 Page 4 of 4