

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

CRM(M) 151/2022

Varun Gupta and Ors.

...Petitioner(s)

Through: Mr Gagan Oswal, Advocate.

Vs.

UT of J&K and Another

...Respondent(s)

Through: Mr Amit Gupta, AAG.

CORAM:

HON'BLE MR JUSTICE JAVED IQBAL WANI, JUDGE

ORDER

31.05.2022

1. The petitioners herein have filed instant petition under Section 482 Cr. PC seeking quashment of criminal proceedings of challan titled as “*UT of J&K Vs. Varun Gupta and Ors.*” arising out of FIR No. 09 of 2020 for commission of offences punishable under Sections 498-A/109 IPC registered at Police Station Women Cell, Gandhi Nagar, Jammu.
2. According to learned counsel appearing for the petitioners the aforesaid criminal case arose out of a matrimonial dispute between the petitioner No. 1 and respondent No. 2 herein.
3. According to learned counsel for the petitioner during the pendency of the instant petition, petitioners as also respondent No. 2 entered into compromise and placed on record a copy of written compromise before this court settling all the disputes and differences amicably outside the court. Learned counsel for the petitioner would seek

- quashment of the criminal proceedings arising out of FIR (supra) in the light of the judgement passed by the Apex court on the subject.
4. Counsel appearing for the respondent No. 2 would admit the submissions made by learned counsel for the petitioners and concedes to the paryer made by learned counsel for the petitioners.
 5. Mr Amit Gupta, AAG, counsel for the respondent No. 1 would submit that criminal proceedings in the instant matter originate from a matrimonial dispute which is claimed to have been settled by the parties, as such, in the light of the judgement of the Apex court the criminal proceedings impugned including FIR supra can be quashed.
 6. Upon coming of the matter for consideration before this court on 29.03.2022, parties were directed to report before Registrar Judicial for recording of their respective statements in support of memo of compromise.
 7. Perusal of the record reveals that statements of the parties have been recorded on 29.03.2022 and 30.03.2022 respectively, wherein the parties have endorsed settlement of *inter-se* disputes and differences and consequently have sought quashment of the criminal proceedings impugned in this petition.
 8. **Heard learned counsel for the parties and perused the record.**
 9. Before proceeding to settle the petition finally on the basis of compromise entered into between the petitioners and the respondent No. 2, it would be advantageous and appropriate to refer to the law laid down by the Apex Court in this regard passed in case titled as ***“Gian Singh Vs. State of Punjab and Another, reported in 2012 (10) SCC 303***, wherein following has been laid down: -.

“61. The position that emerges from the above discussion can be summarized thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victims family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basic private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. 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 proceeding of continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and 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 affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding”.

and **“Parbatbhai Aahir Alias Parbatbhai Bhimsinhbhai Karmur and Others Vs. State of Gujarat and Another”** reported in **2017 (9) SCC 641**”, at Para 16, it has been noticed as under: -

“16. The broad principles which emerge from the precedents on the subject, may be summarized 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 recognizes 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 in so far 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 wellbeing 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.”

10. Keeping in mind the aforesaid principles and propositions of law laid down by the Apex Court and having regard to the issues involved in the petition as well as the statement of the parties got recorded before the Registrar Judicial of this Court, it is manifest that the FIR in question has been registered at the instance of respondent No. 2 against the petitioners and the same relates to a dispute predominantly having a civil flavour being basically private and personal in nature and having been amicably settled and resolved outside the Court by the parties.
11. Thus, in view of the amicable settlement between the parties, the possibility of conviction of the petitioners herein is remote and bleak

and continuation of criminal case rather would put the petitioners to great oppression and extreme injustice despite full and complete settlement and compromise having been arrived at with the respondent No. 2 and further continuation of the proceedings arising out of the FIR in question would be unfair and contrary to the interests of justice and in essence, would amount to abuse of process of law.

12. Having regard to the aforesaid position, therefore, it would be appropriate and in the interest of justice to put an end to the criminal proceedings impugned while quashing the FIR in question. Therefore, challan titled as “*UT of J&K Vs. Varun Gupta and Ors.*” along with FIR No. 09 of 2020, shall stand **quashed**.
13. The petition stands disposed of, accordingly.

(JAVED IQBAL WANI)
JUDGE

JAMMU
31.05.2022
“*Ishaq*”