



2024:DHC:5226



§-33

* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 15.07.2024

+ CRL.M.C. 2857/2024

SUMAN VIJAY

..... Petitioner

Through: Ms. Tanya Kahturia and Mr. Raj
Kumar, Advocates with Petitioner-in-
person.

versus

STATE GOVT. OF NCT OF DELHI AND ANR. Respondents

Through: Ms. Kiran Bairwa, APP for State with
SI Shivom, PS: Madhu Vihar.
Mr. Saksham Kathuria, Advocate for
R-2 with R-2 through VC.**CORAM:****HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA**

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J U D G M E N T**ANOOP KUMAR MENDIRATTA, J (ORAL)**

1. Petition under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioner for quashing of FIR No. 0244/2015, under Section 23 of Juvenile Justice (Care and Protection of Children) Act, 2000 ('JJ Act'), registered at PS: Madhu Vihar and proceedings emanating therefrom. Sections 323/506 IPC have been subsequently invoked.

2. In brief, as per the case of the prosecution, present FIR was registered on 27.02.2015, on complaint of 'S', mother of minor child 'X' aged about three and a half years, who alleged that on returning from Step Forward School, West Vinod Nagar, minor child 'X' had some injury marks on his face. On enquiry the child informed that since he was unable to recite the



Alphabets 'ABCD', he was slapped by the petitioner (teacher) on his face. FIR was accordingly registered under Section 23 of JJ Act after getting the child medically examined.

3. Learned counsel for the petitioner submits that matter has been amicably settled between the parties in terms of Settlement Deed dated 16.03.2024. He further points out that neither there was any intention on the part of the petitioner to inflict any harm / injury to 'X' nor any such visible mark was recorded in the MLC except for observing Bruise over the left cheek and right cheek. The nature of injury is also stated to have been recorded as simple. He further points out that petitioner had been summoned in the year 2023, on filing of supplementary chargesheet, after recording of statement of the child on directions issued by learned MM on 09.01.2020.

4. Respondent No. 2, who is mother of child 'X', submits that matter has been amicably settled between the parties and states that FIR had been lodged on the information given by the child.

5. Learned APP for the State submits that in view of amicable settlement between the parties, she has no objection in case the FIR in question is quashed.

6. Petitioner in the present case seeks to invoke the powers under Section 482 of the Code of Criminal Procedure. The same is to be used to secure the ends of justice or to prevent the abuse of process of Court. In which cases, the power to quash the criminal proceedings or the complaint or FIR may be used when the offender as well as victim have settled their dispute, would depend upon the facts and circumstances of each case and no generalized list or categories can be prescribed. However, the Court is required to give due regard to the nature and gravity of the offence and consider the impact on the



society.

7. It may also be observed that heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot be appropriately quashed despite settlement. However, distinguished from serious offences, the offences which have predominant element of civil dispute or offences involving minor incidents, where the complainant / victim also stands compensated for loss, if any, stand on a different footing, so far as exercise of inherent powers under Section 482 Cr.P.C. is concerned. The High Court also is not foreclosed from examining as to whether there exists material for incorporation of such an offence or as to whether there is sufficient evidence which if proved would lead to proving the charge for the offence charged with. It may also be assessed, if in view of compromise between the parties, the possibility of conviction in such a case is remote and whether continuation of proceedings would cause grave oppression and prejudice the accused.

8. Section 17 of the Right to Education Act, 2009, imposes an absolute bar on corporal punishment and mental harassment to a child, which may take place in Government or Private schools for disciplining children. The corporal punishment to a child in any form is deprecable, even though the motive may be to make a child realise that his/her act is unacceptable, wrong or disappointing.

United Nations Convention on the Rights of the Child also provides that appropriate measures need to be taken to ensure that school discipline should be administered in a manner consistent with the child dignity and no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.



Provisions under Juvenile Justice Act also underscore the importance to uphold the dignity and rights of the child. Section 23 of JJ Act, 2000 provides punishment, in case, a person having actual charge of or control over, a juvenile or the child, assaults, abandons, exposes or wilfully neglects the juvenile or causes or procures him to be assaulted, abandoned, exposed or neglected in a manner likely to cause such juvenile or the child unnecessary mental or physical suffering.

9. Perusal of chargesheet in the present case reveals that FIR was registered on the complaint of 'S' (mother of minor child) on seeing some bruises on his face. She alleged that her son 'X' disclosed that his teacher (i.e. petitioner) slapped him since he failed to recite the alphabet 'ABCD'. In MLC against history, Doctor had recorded assault, Bruise over left cheek and right cheek. However, the bottom line remains that the statement of the victim was not recorded till the filing of chargesheet.

The investigating agency never took the aid of a child psychologist / counsellor for the purpose of even ascertaining, if the child aged about three and a half years was in a position to correctly disclose the reason for a bruise on his face. The Chargesheet merely proceeded on the statement of mother of 'X' on assumption.

10. Apparently, there was no motive on part of petitioner to cause any hurt and she categorically denied any such incident. Surprisingly, learned MM after filing of Chargesheet, vide order dated 09.01.2020 directed to record the statement of the victim in respect of an incident dated 27.02.2015 without even realising the value of such a delayed statement, after a gap of 5 years.

11. Petitioner and respondent No. 2 are present in person and have been identified by SI Shivom, PS: Madhu Vihar. I have interacted with the parties



and they confirm that the matter has been amicably settled between them without any threat, pressure or coercion. Respondent No. 2 submits that since all the disputes between the parties have been amicably settled, she has no further grievance in this regard and has no objection in case FIR in question is quashed.

12. Petitioner and respondent No. 2 intend to put quietus to the proceedings arising out over a minor issue and which are pending for a period of 9 years. The settlement shall promote harmony between the parties and permit them to move forward in life. Also the chances of conviction are bleak in view of amicable settlement between the parties. Further, no past involvement of the petitioner has been brought to the notice of this Court.

13. In the facts and circumstances, no purpose shall be served by keeping the proceedings pending against the petitioner, specifically in view of settlement entered into between petitioner and the complainant. The continuation of proceedings would be nothing but an abuse of the process of Court. Consequently, FIR No. 0244/2015, under Sections 323/506 IPC and Section 23 of JJ Act, registered at PS: Madhu Vihar and proceedings emanating therefrom stand quashed.

Petition is accordingly disposed of. Pending applications, if any, also stand disposed of.

A copy of this order be forwarded to learned Trial Court for information.

ANOOP KUMAR MENDIRATTA, J.

JULY 15, 2024/R