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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. No. 3900/2011**

% *Judgment delivered on: 25 November, 2011*

BISHAMBER ..... Petitioner  
Through : Mr. Deepak Anand and  
Mr. Ghanshyam Yadav, Advs.

versus

STATE (NCT OF DELHI) & ORS. .... Respondents  
Through : Mr. Navin Sharma, APP for the  
State with SI Pradeep Rai, PS Kashmiri  
Gate.

**CORAM:**  
**HON'BLE MR. JUSTICE SURESH KAIT**

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|---------------------------------------------------------------------------------|----|
| 1. Whether the Reporters of local papers<br>may be allowed to see the judgment? | No |
| 2. To be referred to Reporter or not?                                           | No |
| 3. Whether the judgment should be reported<br>in the Digest?                    | No |

**SURESH KAIT, J. (Oral)**

1. Notice issued.
2. Ld. APP accepts notice on behalf of the State. .
3. Respondents No. 2 & 3 are personally present in the Court.
4. Ld. counsel for the petitioners submits that vide FIR No. 110 dated 21.06.2011 a case under Section 308 of the Indian Penal Code,

1860 was registered against the petitioner on the complaint of respondent No.2 and 3 at PS Kashmiri Gate.

5. The aforesaid FIR was lodged on the allegations that some altercation took place between the parties and the petitioner jumped in the water of Yamuna and also pushed Ms. Rajeshwari and Krishna in the said river.

6. Ld. counsel for the petitioner submits that the parties in this case belong to washerman(Dhobi) community. The respondents are closely related to each other. The total number of families on the said Ghat is around 45-50. All are related to each other, therefore, just to maintain harmony and brotherhood in the community, the respondents No.2 & 3 have amicably settled all the issues with the petitioner qua the aforesaid FIR .

7. Respondents No. 2 & 3 are personally present in the Court. Both of them are identified by SI Pradeep Rai, PS Kashmiri Gate. Respondent No.2 & 3 submit that with the intervention of the family members and other respectable members of the society they have amicably settled all the issues with the petitioner vide compromise deed dated 11.11.2011 qua the aforesaid FIR. The petitioner is their brother in relation. They state that they do not want to pursue the case further and have no objection if the present FIR is quashed.

8. Ld. APP for the State submits that the offence in the present case is under Section 308 of the Indian Penal Code, 1860 which is non-compoundable. He has referred to the judgment of Hon'ble Supreme Court in ***Gian Singh Vs. State of Punjab & Anr.*** in ***SLP (Crl.) No.8989/2010*** wherein the Division Bench of the Supreme Court

has referred three earlier decisions, viz, ***B.S. Joshi V. State of Haryana (2003) 4 SCC 675, Nikhil Merchant v. Central Bureau of Investigation and Anr. (2008) 9 SCC 677 and Manoj Sharma Vs, State & Ors. (2008) 16 SCC 1***, to a larger Bench for re-consideration whether the abovesaid three decisions were decided correctly or not.

9. Previously, I have taken the view on the basis of the decision taken by the Division Bench of Mumbai High Court in ***Nari Motiram Hira Vs. Avinash Balkrishnan & Anr.*** in ***Crl.W.P.No.995/2010 decided on 03.02.2011*** whereby the Division Bench of Mumbai High Court has permitted for compounding of the offences under Section 452/324 of Indian Penal Code which were ‘*non-compoundable*’ as per Section 320 Cr. P.C. Therefore, I feel that unless and until, the decisions which have been referred to above, are set aside or altered by the larger Bench of the Supreme Court, all the above three decisions hold the field and are binding precedents.

10. Alternatively, Ld.APP submits that if the Court is inclined to quash the aforesaid FIR, then some costs may be imposed on the petitioners for substantial justice.

11. In the above circumstances, I quash the aforesaid FIR No. 110 registered against the petitioner at PS Kashmiri Gate and all criminal proceedings emanating therefrom.

12. Though, I find force in the submission made by learned APP for State, but refrains from imposing costs upon the petitioner keeping in view their poor financial condition.

13. Criminal M.C. 3900/2011 is allowed and disposed of.
14. Dasti.

**SURESH KAIT, J**

**NOVEMBER 25, 2011**  
**RS**