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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(CRL) 1340/2012

BRIJESH @ SUNNY

..... Petitioner

Through: Mr.Sanjeev Rajpal , Advocate for Mr.
Sanjay Misra, Advocate.

versus

STATE & ANR.

..... Respondent

Through: Ms.Manvi Priya Advocate for
Mr.Dayan Krishnan, ASC for State.
Mr.V.K.Sharma, Advocate for R-2.

+ W.P.(CRL) 1344/2012

VINOD KUMAR & ANR.

..... Petitioner

Through: Mr.V.K.Sharma, Advocate

versus

STATE & ANR.

..... Respondent

Through: Mr.Saleem Ahmed, ASC with
Ms.Charu Dalal, Advocate.
SI R.N. Pathak, P.S. Geeta Colony.

+ BAIL APPLN. 1394/2012

TILAK RAM @ KALU

..... Petitioner

Through: Mr.V.K.Sharma, Advocate

versus

STATE

..... Respondent

Through: Ms.Rajdipa Behura, APP for the State

CORAM:

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HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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30.10.2012

1. These are writ petitions filed under Article 226 and 227 of the Constitution of India read with Section 482 Cr.P.C for quashing of FIR No.173/2012 under Section 308/323/324/341/34 IPC (Section 307 IPC was added by the IO later on) and FIR No.174/2012 under Section 308 IPC both registered at P.S. Geeta Colony Delhi in cross cases and consequential proceedings arising therefrom.
2. The facts leading to the registration of the case FIR No.173/2012 P.S. Geeta Colony Delhi are that on 21.06.2012 at around 10:00 PM when respondent No. 2 came to his house saw that petitioner Nos. 1 to 3 were misbehaving and beating her daughter Divya. When respondent No.2 intervened and protested, they started beating him also. In the meantime, Divya called the other family members and on seeing them, petitioner Nos. 1 and 2 took out knives and gave knife blows to respondent No.4. When the wife and daughters of respondent No.2 tried to intervene, petitioners gave knife and fist blows to them. Respondent No. 7 called PCR. FIR was got registered and all the injured were taken to the hospital.
3. The facts leading to the registration of the case FIR No.174/2012 P.S. Geeta Colony Delhi are that on 21.06.2012 at around 10:00 PM respondent No. 2 saw from his house that petitioner Brijesh was standing in front of his house, who had a bad eye on his sister Shilpi and had misbehaved with her in the past. When respondent No.2 asked Brijesh as to why he was standing there, petitioner Brijesh started abusing him, the

conversation between petitioner and respondent No. 2 turned into an ugly quarrel and petitioner came with a knife and attacked on his hand and head. He managed to escape and informed PCR. Thereafter respondent No. 2 was taken to the hospital and on his statement FIR No.174/2012 was registered.

4. It has been stated that both the parties have arrived at an amicable settlement out of their own sweet will, without any pressure and force from any corner and complainant/ Vinod Kumar in W.P.(Crl.)1340/2012 and Complainant/Pandit Heera Lal Goswami in W.P.(Crl.) 1344/2012 do not wish to pursue the criminal cases and submitted that the said FIRs and all proceedings emanating therefrom may be quashed. A Compromise Deed dated 04.09.2012 to this effect is also placed on record to affirm the factum of settlement arrived at between the parties.

5. Offences punishable under Sections 307/308 IPC are non-compoundable offences. In the latest decision in the case of **Gian Singh v State of Punjab & Anr. MANU/SC/0781/2012** decided on 24.09.2012, the three Judges Bench of the Supreme Court dealing with the issue of quashing of FIR has observed as under:-

“57. The position that emerges from the above discussion can be summarised 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 victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and 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 favour 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 basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and 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 or 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."

6. Learned counsel for the petitioners in both the petitions submit that the matter in dispute has been amicably settled and no purpose would be served in prosecuting the petitioners in both the FIRs, therefore, the FIRs may be quashed.
7. Complainants in both the FIRs also affirm that the parties have settled

the matter amicably and they are not interested in prosecuting the petitioners and submit that the said FIRs and all proceedings emanating therefrom may be quashed.

8. In view of the aforesaid amicable settlement arrived at between the parties, I am of the considered view that no useful purpose would be served by continuing the criminal proceedings against the petitioners, which will only be an exercise in futile and wastage of precious time of the Court.

9. Accordingly, both the petitions are allowed. FIR No.173/2012 under Section 308/307/323/324/341/34 IPC and FIR No.174/2012 under Section 308 both registered at P.S. Geeta Colony, Delhi and all the proceedings arising therefrom are hereby quashed.

10. Bail Application No. 1394/2012 has also been filed under Section 438 Cr.P.C. for anticipatory bail of Tilak Ram @ Kalu. As the FIRs already stand quashed, the present bail application has become infructuous and is disposed of accordingly.

11. Dasti.


PRATIBHA RANI, J

OCTOBER 30, 2012

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