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

Delivered on: 13th July, 2015

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CRL.M.C. No. 357/2015

VIRENDER & ORS

..... Petitioner

Represented by: Mr. Rajesh Kumar, Adv.

Versus

THE STATE (GOVT OF NCT)
OF DELHI & ANR

..... Respondents

Represented by: Mr. M.N. Dudeja, APP for
the State with SI Ramesh Kumar, PS
Sultan Puri.

Respondent no. 2 in person.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J.(Oral)

CRL.M.C. 357/2015

1. By way of this petition filed under Section 482 of the Code of Criminal Procedure, 1973, petitioners seek quashing of FIR No. 1136/2014 registered at PS-Sultan Puri, Delhi for the offences punishable under Sections 307/506/34 IPC and the consequential proceedings emanating therefrom against the petitioners on the ground that the matter has been amicably settled between the parties.
2. Learned counsel appearing on behalf of the petitioners submits that the aforesaid case was registered on the complaint of respondent

no.2. The petitioners and the respondent no.2 are staying in the same locality. The quarrel took place on 05.10.2014, while the respondent no.2 was standing at workshop, petitioner no.3 Monu@ Ravinder came there and started urinating at the place of 'Mata'. When respondent no.2 objected to it, petitioners no.1 & 2 also came there and started beating him. He was saved by some people of the locality. They went away and, thereafter, came again and abused the respondent no.2 and beat him. Petitioner no.1 exhorted petitioners no.2 & 3 and they caught hold of him and petitioner no.1 stabbed him with a knife.

3. Learned counsel for the petitioner submits that the case is at the stage of investigation. With the intervention of the common friends and the respectable members of the locality, the matter has been settled between the parties. Respondent no.2 does not wish to pursue the case further against the petitioners. To maintain peace and harmony in the society and in the interest of justice, this petition may be allowed.

4. Respondent No. 2 is personally present in the Court and has been identified by SI Ramesh Kumar, PS Sultan Puri. He submits that with the intervention of the common friends and the respectable members of the locality, the matter has been settled between them. He does not wish to pursue the case further against the petitioners. He has no other complaint against the petitioners. Therefore, he has prayed that the present petition may be allowed.

5. Learned Additional Public Prosecutor appearing on behalf of the State submits that there is another case also registered against the petitioners no. 1 & 2 being FIR No.19/2005 under sections 323/325/34 IPC at PS Sultan Puri, Delhi. This is the second case against the petitioners no.1 & 2. Though, the respondent no.2 has settled the matter with the petitioner, this Court may not quash the FIR. Alternatively, he submits that if this Court is still inclined to quash the FIR, heavy costs may be imposed on the petitioners.

6. Undisputedly, offence punishable under Section 307 IPC is non-compoundable, however, considering the facts and circumstances of the case and in exercise of the inherent powers under Section 482 of the Code of Criminal Procedure, 1973, this Court has power to accept the compromise. This issue has been decided by the Constitution Bench of the Supreme Court in the case titled as ***Gian Singh Vs. State of Punjab and Another (2012) 2 SCC (L&S)998***, wherein held as under:

“61..... 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 predominatingly 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.”

7. The aforesaid view has been affirmed by the Apex Court in the case of ***Narinder Singh & Ors. Vs. State of Punjab & Anr. 2014 6 SCC 466*** wherein held as under:-

31. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section [482](#) of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

(I) Power conferred under Section [482](#) of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section [320](#) of the Code. No doubt, under Section [482](#) of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

(II) When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

(i) ends of justice, or

(ii) to prevent abuse of the process of any Court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

(III) Such a power is not be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by Public Servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

(IV) On the other, those criminal cases having overwhelmingly and pre-dominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

(V) While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

(VI) Offences under Section [307](#) Indian Penal Code would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because

there is a mention of Section [307](#) Indian Penal Code in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section [307](#) Indian Penal Code is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section [307](#) Indian Penal Code. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

(VII) While deciding whether to exercise its power under Section [482](#) of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge sheet has not been

filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section [482](#) of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come a conclusion as to whether the offence under Section [307](#) Indian Penal Code is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section [307](#) Indian Penal Code and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.

8. As discussed above, offence punishable under Section 307 IPC is non- compoundable being of serious nature, however, if the Court feels that continuation of criminal proceedings will be an exercise in futility and justice in this case demands that the dispute between the parties is put to an end and peace is restored in the society, it can order for quashing of the FIR or criminal proceedings as it is the duty of the Court to prevent continuation of unnecessary judicial process.

9. So far as the case in hand is concerned, it is important to note that this case is at the initial stage and the chargesheet has not yet been filed. Moreover, the injury is minor and simple.

10. In view of the law discussed above, considering the fact the matter has been amicably settled between the parties and the statement of respondent no. 2, FIR No.1136/2014 registered at PS-Sultan Puri, Delhi for the offences punishable under Sections 307/506/34 IPC is hereby quashed with emanating proceedings thereto, if any, against the petitioners.

11. The petitioners belong from the lower strata of the society, therefore, keeping in view their financial conditions, this Court is not inclined to imposed costs upon them.

12. Accordingly, the petition is allowed.

Crl. M.A. No. 1399/2015 (stay)

Dismissed as infructuous.

SURESH KAIT, J

JULY 13, 2015

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