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

Judgment delivered on: 3rd July, 2015

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CRL.M.C.No.3233/2014

SANDEEP & ORS. Petitioners

Represented by: Mr.Mahipal Singh, Advocate.

Versus

THE STATE & ORS. Respondents

Represented by: Mr. Ravi Nayak, Additional
Public Prosecutor for the
State with SI Bijendra
Kumar, P.S. Chhawla,
Respondent No. 2 in person.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. Vide the present petition, the petitioners seek directions thereby quashing the FIR No.90/2013, registered at Police Station Chhawla for the offences punishable under Sections 323/341/342/365/34 IPC and the proceedings emanating thereto against the petitioners.

2. Learned counsel appearing on behalf of the petitioners submits that petitioners have remained in jail for about one week and thereafter released on bail by the learned Magistrate. The aforesaid FIR was registered on the complaint of respondent No.2/complainant, who has settled all the disputes with the

petitioners and he is no more interested to pursue the instant petition further against the petitioners.

3. The respondent No.2/complainant is present in person, who is identified by SI Bijendra Kumar of Police Station Chhawla, Investigating Officer of the case. The complainant submits that he has settled all the disputes with the petitioners and does not want to pursue the case against the petitioners and has no objection if the present petition is allowed.

4. On the other hand, Mr. Nayak, learned Additional Public Prosecutor appearing on behalf of the State, on instructions, submits that charges have already been framed against the petitioners and the case is pending for evidence. He further submits that though there is no other case against the petitioners but if this Court is inclined to allow the instant petition, heavy cost may be imposed upon the petitioners.

5. In ***Gian Singh Vs. State of Punjab and Another (2012) 10 SCC 303***, the Apex Court has recognized the need of amicable resolution of disputes in cases like the instant one, by observing as under:-

“Resolution of a dispute by way of a compromise between two warring groups, therefore, should attract the immediate and prompt attention of a court which should endeavour to give full effect to the same unless such compromise is abhorrent to lawful composition of the society or would promote savagery.

Where the High Court quashes a criminal

proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor.”

6. The aforesaid dictum 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 to 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.

7. Applying the dictum of aforementioned decisions to the facts of this case, I am of the considered opinion that continuance of proceedings arising out of the FIR in question would be an exercise in futility in view of the fact that the matter stood settled between the parties and the statement made by the respondent No.2/complainant.

8. So far as the imposition of cost is concerned, I find force in the submission of the learned Additional Public Prosecutor for the State. However, keeping in view the financial position of the petitioners, I do not incline to impose cost upon the petitioners.

9. In view of the law discussed above, I hereby quash the FIR No.90/2013, registered at Police Station Chhawla for the offences punishable under Sections 323/341/342/365/34 IPC and the proceedings emanating thereto against the petitioners.

10. In view of the above, the present petition is allowed with no order as to costs.

SURESH KAIT, J.

JULY 03, 2015

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