

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 18th May, 2015

+ W.P.(CRL) 638/2015

SHRI SANT KUMAR JAIN

..... Petitioner

Through: Mr Shiv Charan Garg, Adv.
versus

STATE GOVT OF NCT OF DELHI & ANR

..... Respondent

Through: Ms Rajdipa Behura, ASC for State
alongwith Ms Monica Gupta, Adv.
alongwith Sub Inspector Pawan Kumar
Police Station Bindapur, Delhi
Mr Deepak Jain, Adv. for the respondent
no.2 alongwith the respondent no.2 in
person

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CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA

J U D G M E N T

: SUNITA GUPTA, J.

1. This is a petition under Article 226 of the Constitution read with Section 482 Cr.PC moved by the petitioner for quashing of FIR No.954 /2014 registered at Police Station Bindapur, Delhi under Sections 376/511/506/451/380/34 IPC and consequent proceedings emanating therefrom on the ground that the parties have compromised the matter.

2. The FIR in the instant case was registered on the basis of a complaint made by respondent No.2/complainant – Ms. Arti Sharma alleging therein that on 25.12.2013, the petitioner – Sant Kumar Jain alongwith one Atul and one other neighbour entered into her house i.e. C-1/9, Sanjay Enclave, Uttam Nagar, where she was living as a tenant. The petitioner asked Atul to rape her so that she may not be able to show her face to anyone. In the meanwhile her landlord – Naveen Verma reached there and due to his knocking the door she could be saved.

3. It is submitted by learned counsel for the petitioner that petitioner no.1 is the owner of the property bearing number C-1, Plot No.9, Sanjay Enclave, Uttam Nagar, Delhi and the petitioner no.2 is the son of the petitioner no.1. Disputes arose in respect of the aforesaid property which culminated in registration of present FIR by the respondent no.2 against the petitioner. The petitioner has also filed a civil suit bearing Suit No.447/2014 in which interim injunction was granted by this Court vide order dated 17.02.2014. The petitioner no.1 also got registered one FIR No.651/2013 under Section 448 IPC Police Station Bindapur, New Delhi against the respondent no.2. He further submits that when the statement of the respondent no.2 was recorded by the learned Metropolitan Magistrate under Section 164 Cr.PC she denied that she was subjected to rape. During the pendency of suit, with the intervention of the respectable persons of the society, the parties have entered into a compromise deed dated 10.11.2014 whereby they have settled all their disputes and agreed to withdraw their respective cases including quashing of instant FIR as well as the FIR lodged by the petitioner. By placing reliance on *Yogendra Yadav and others vs. State of Jharkhand and another*, (2014) 9 SCC 653, it is submitted that in view of the settlement arrived at between the parties, the FIR be quashed.

4. The respondent No.2/complainant – Ms. Arti Sharma has appeared in the Court. She was duly identified by the Investigating Officer of the case. She admits that the matter has been amicably compromised between the parties pursuant to which compromise deed dated 10.11.2014 was entered into between the parties whereby they have agreed to withdraw the cases filed against each other. She submits that in view of the settlement arrived at between the parties, she does not want any action against the petitioner and has no objection to quashing of FIR.

5. Ms Rajdipa Behura, ASC for the State submits that in view of the settlement arrived at between the parties, she has no objection to quashing of FIR, but since the State machinery has been set in motion on account of objectionable acts of the petitioner, it is submitted that the petitioner be burdened with some cost.

6. In *Yogendra Yadav (supra)*, the question which arose before the Hon'ble Supreme Court was whether the Court can compound the offence which are non-compoundable. It was observed that the offences which are non-compoundable cannot be compounded by the Court as the Court derives the power of compounding the offence from Section 320 Cr.PC. However, in a given case, the High Court can quash a criminal proceeding in exercise of its power under Section 482 of the Code having regard to the fact that the parties have amicably settled their disputes and the victim has no objection, even though the offences are non-compoundable. In which cases the High Court can exercise its discretion to quash the proceedings will depend on facts and circumstances of each case. Offences which involve moral turpitude, grave offences like rape, murder etc. cannot be effaced by quashing the proceedings because that will have harmful effect on the society. Such offences cannot be said to be restricted to two individuals or two groups. If such offences are quashed, it may send wrong signal to the society. However, when the High Court is convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquillity and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, the prosecution becomes a lame prosecution. Pursuing such a lame prosecution would be waste of time and energy. That will also unsettle the compromise and obstruct restoration of peace.

7. In *Gian Singh vs. State of Punjab*, (2012) 10 SCC 303, it was observed as under:

“58. 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.”

8. Although in *Yogendra Yadav* (supra), it was observed that in grave offences like rape, etc. the quashing of proceedings should not be done but if the court is convinced that the offences are entirely personal in nature, it should not hesitate to quash them. In the instant case, although FIR was registered under Section 376/511 IPC besides other sections, but when the statement of complainant under Section 164 Cr.PC was recorded by the learned Metropolitan Magistrate, no such allegation was levelled. Furthermore, it seems that it was basically a property dispute as a result of which while the respondent no.2 lodged the instant FIR against the petitioner, the petitioner also got FIR No.651/2013 under Section 448 IPC Police Station Bindapur, New Delhi registered against the respondent no.2 and another. He also filed a civil suit against the respondent no.2 and others in which injunction was granted by this Court. That being so, the offences are entirely personal in nature and do not affect the public peace and tranquillity. The compromise deed has already been executed between the parties thereby settling all their disputes. That being so, quashing of such proceedings on account of compromise would bring about peace and would secure the ends of justice. Therefore, the petition is allowed and the FIR No.954 /2014 registered at Police Station Bindapur, Delhi under Sections 376/511/506/451/380/34 IPC and consequent proceedings emanating therefrom are hereby quashed.

9. The petition stands disposed of accordingly.

(SUNITA GUPTA)
JUDGE

MAY 18, 2015/*rd*