

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

Date of Decision: January 13, 2015

+ **CRL.M.C. 4647/2013**

K SWAMINATHAN & ORS. Petitioners
Through: Ms. Satya Siddiqui, Mr. Sarfaraz
A. Siddiqui & Mr. Shailender
Kumar Mishra, Advocates

versus

STATE & ORSRespondents
Through: Mr. Rajesh Mahajan, Additional
Standing Counsel for respondent
No.1-State & Ms. Shinjan Jain,
Advocates with SI Pradeep Kumar

+ **CRL.M.C. 4649/2013**

RAJPUT ASHISH & ORS. Petitioners
Ms. Satya
Siddiqui, Mr. Sarfaraz A. Siddiqui
& Mr. Shailender Kumar Mishra,
Advocates

versus

STATE & ORS.Respondents
Through: Mr. Rajesh Mahajan, Additional
Standing Counsel for respondent
No.1-State & Ms. Shinjan Jain,
Advocates with SI Pradeep Kumar

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

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JUDGMENT
(ORAL)

In the above captioned first petition, quashing of FIR No. 78/2013, under Sections 147/148/149/279/337/336/308/323 of the IPC and in the above captioned second petition, FIR No. 79/2013, under Sections 147/149/323/341/395 of the IPC, both registered at police station Sarojini Nagar, New Delhi is sought while relying upon Compromise Deed of 21st October, 2012 reached between the parties.

Learned Additional Public Prosecutor for respondent-State has drawn attention of this Court to pertinent observations of Apex Court in '*Gian Singh Vs. State of Punjab & Anr.*' (2012) 10 SCC 303, which reads as under:-

“58. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all.”

After hearing both sides and upon perusal of the material on record, this Court finds that the prayer made in these petitions cannot be granted as FIR No. 79/2013 pertains to offence under Section 395 of the IPC which is punishable with sentence upto imprisonment for life.

Learned counsel for petitioners submits that offence under Section 395 of the IPC is not made out against the petitioners.

If it is so, then let petitioners argue on the point of charge before the trial court and if trial court chooses not to put petitioners on trial for offence under Section 395 of IPC, then petitioners are at liberty to seek quashing of the FIRs in question.

With aforesaid observations, the above captioned two petitions are disposed of.

(SUNIL GAUR)
JUDGE

JANUARY 13, 2015

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