

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

Date of Decision: January 09, 2015

+ (i) **CRL.M.C. 597/2014**

SANJAY WADHWA & ORS Petitioners

Through: Mr. Rajeev Sharma, Advocate

versus

STATE & ORS Respondents

Through: Mr. Vinod Diwakar, Additional
Public Prosecutor for respondent-
State with SI Yogendra Kumar

+ (ii) **CRL.M.C. 598/2014**

ROOPAM GULATI & ORS Petitioners

Through: Mr. Rajeev Sharma, Advocate

versus

STATE & ORS Respondents

Through: Mr. Vinod Diwakar, Additional
Public Prosecutor for respondent-
State with SI Yogendra Kumar

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

% **JUDGMENT**
(ORAL)

In the above captioned petitions, quashing of cross FIRs i.e. FIR
No.346/2007 under Sections 448/380/323/324/506/454/427/34 of IPC (*in*

CRL.M.C.597/2014) and FIR No.345/2007 under Sections 323/326/506/34 of IPC (*in CRL.M.C.598/2014*) both registered at P.S. Subzi Mandi, Delhi on the ground of *Mediated Settlement* of 9th April, 2013 arrived at Mediation Centre at Tis Hazari Courts, Delhi.

Since the above quashing is sought on the common grounds, therefore, with the consent of learned counsel for the parties, both these petitions were heard together and by this common judgment, they are being disposed of.

Pertinently, I find that there is no reference of Section 326 of IPC in the afore-noted *Mediated Settlement*. However, accused persons of FIR No.345/2007 have been charge-sheeted for the offence under Section 326 of IPC as well.

Learned Additional Public Prosecutor for respondent-State points out that offence under Section 326 of IPC entails punishment of imprisonment for life and draws the attention of this Court to the following observations made by the 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.*’

Further, the Apex Court in *N. Soundaram v. P.K. Pounraj*, (2014)

10 SCC 616, has observed as under:-

“13. It is well settled by this Court in a catena of cases that the power under Section 482 CrPC has to be exercised sparingly and cautiously to prevent the abuse of process of any court and to secure the ends of justice. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court should refrain from giving a prima facie decision unless there are compelling circumstances to do so. Taking the allegations and the complaint as they were, without adding or subtracting anything, if no offence was made out, only then the High Court would be justified in quashing the proceedings in the exercise of its power under Section 482 CrPC. An investigation should not be shut out at the threshold if the allegations have some substance.

14. An overall perusal of the materials placed before us makes out a prima facie case against the accused which requires to be decided by conducting a proper trial. At this stage the High Court cannot analyse and meticulously consider the evidence and anticipate whether it will end up in conviction or acquittal. This is not the stage to decide whether there is any truth in the allegations made but to form an opinion whether on the basis of the allegation a cognizable offence or offences alleged has been prima facie made out. The guilt or otherwise of the accused can be proved only after conducting a full-fledged trial. In the circumstances, in our

opinion, it is not proper for the High Court to interfere with the proceedings and quash the final report submitted by the police”

Applying the dictum of the Apex Court in *Gian Singh (supra)* and *N. Soundaram (supra)*, I do not find it to be a fit case for quashing the FIRs in question. Accordingly, the above-captioned two petitions are dismissed while refraining to comment upon the merits lest it may prejudice either side at trial.

Both these petitions are accordingly disposed of.

(SUNIL GAUR)
JUDGE

JANUARY 09, 2015

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