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Date of Decision: January 22, 2015

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H P SINGH & ORS.

.....Petitioners

Through: Mr. Sudhir Nandrajog, Sr.
Advocate, with Mr. Gajender
Kumar and Ms. Kajal Bhati,
Advocates

versus

STATE & ANR.

.....Respondents

Through: Mr. Vinod Diwakar, Additional
Public Prosecutor for respondent-
State
Mr.Gaurav Bahl, Advocate with
respondent No.2 in person

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

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Quashing of Criminal Complaint No.174/A/7 titled *Smt. Alka Jain v. H.P. Singh & Ors.* and the summoning order of 30th July, 2014 is sought on the basis of *Memorandum of Understanding* of 17th October, 2014 and affidavit of respondent No.2-complainant.

Learned senior counsel for petitioners submits that vide impugned order of 30th July, 2014, petitioners have been erroneously summoned in the aforesaid criminal complaint case for the offence under Sections 409/471 of IPC. It is submitted that on a bare perusal of complaint (*Annexure P-2*), the ingredients of the offence for which petitioners have

been summoned, do not exist and even if the complaint in question is taken as at is, at best, it would show that it is a case of misrepresentation only as the property in question is said to have been undersold by petitioner No.1 and offence, if any, would come within the ambit of Section 420 of IPC only.

Upon notice, Mr. Gaurav Bahl, Advocate, appears on behalf of respondent No.2 and submits that there was misunderstanding, which led to the filing of the complaint in question, and the misunderstanding now stands cleared and even on merits, no case under Sections 409/471 of IPC is made out against petitioners. It is submitted that respondent No.2 is present in the Court.

Respondent No.2, present in the Court, submits that the misunderstanding, which led to the filing of the complaint in question, now stands cleared with petitioners in terms of aforesaid *Memorandum of Understanding* and she affirms the contents of aforesaid *Memorandum of Understanding* and of her affidavit of 17th October, 2014 supporting this petition. Respondent No.2 submits that since there is no substance left in her complaint, therefore, the proceedings arising out of the FIR in question be brought to an end.

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

“61. 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 proceedings or continuation of criminal proceedings would tantamount to abuse of process of law despite settlement and compromise between the victim and

the 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 the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceedings.”

In the facts and circumstances of this case, I find that the impugned summoning order of 30th July, 2014 discloses utter non-application of mind as, even on merits, neither offence under Section 409 of IPC nor under Section 471 of IPC is made out. Even if the complaint is taken as it is, still the offence, if any made out, would come within the ambit of Section 420 of IPC only, which is compoundable.

In view of aforesaid *Memorandum of Understanding* and the affidavit of respondent No.2, I find that continuance of proceedings arising out of the FIR in question would be an exercise in futility as the misunderstanding, which led to filing of the complaint in question, now stands cleared between the parties.

Accordingly, this petition is allowed subject to cost of ₹50,000/- to be deposited by petitioners with *Prime Minister's Relief Fund* within two weeks from today. Upon placing on record the receipt of cost, the Criminal Complaint No.174/A/7 titled *Smt. Alka Jain v. H.P. Singh & Ors.* and the proceedings emanating therefrom shall stand quashed *qua* petitioners.

This petition and the application are accordingly disposed of.

Dasti.

**(SUNIL GAUR)
JUDGE**

JANUARY 22, 2015

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