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

Judgment delivered on: 06th October, 2015

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CRL.M.C. No.5254/2014

VIPIN & ORS

..... Petitioners

Represented by: Mr.F.Haq and Mr.R.C.S.
Bhatoria, Advs with
petitioners in person.

versus

THE STATE NCT OF DELHI & ORS

..... Respondents

Represented by: Mr.Hirein Sharma, APP for
the State with SI Sudhir
Kumar, PS Sunlight Colony,
in person.
Mr.Momin Fazal, Adv for
respondent Nos.2 & 3 with
both respondents in person.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. By way of this petition filed under Section 482 of the Code of Criminal Procedure, 1973, petitioner seeks quashing of FIR No.48/2013 registered at Police Station Sun Light Colony, New Delhi, for the offences punishable under Sections 307/34 of the IPC read with Section 25/27 of the Arms Act, 1959 and the consequential proceedings emanating therefrom against them.

2. Learned counsel appearing on behalf of the petitioners submit that the aforesaid case was registered on the information of respondent No.2, Suman Kumar and respondent No.3 Ranjan Kumar got injuries in the scuffle on 05.02.2013. Thereafter, the petitioners and both respondents settled the matter for a total sum of Rs.2.00 Lac vide compromise deed dated 18.11.2014 due to interventions of common friends and respectable members of the society. Consequent thereto, respondent No.3 already received the settled amount of Rs.2.00 Lac from petitioners. Thus, aforesaid respondents do not want to pursue the case further against them.

3. Respondent Nos.2 and 3 are personally present in the Court through their learned counsel above named. For identification purpose, respondent No.2 produced EPIC bearing No.XHC1355858 and respondent No.3 produced Aadhaar Card No.4192-7085-6714. Original seen and returned to them. Learned counsel for respondent Nos.2 & 3 under instructions submitted that matter has been settled with the petitioners and settlement amount has been received by the injured / respondent No.3. Respondent No.2 is the informant of the FIR in question and was not injured in the incident. Both respondents do not have any objection, if the present petition is allowed.

4. Learned APP appearing on behalf of the State submits that aforesaid case was registered in the year 2013 and after framing of the charges, matter is pending trial before learned Trial Court. Due to this incident, government machinery came into motion and public time and money has been consumed. Pursuant to settlement between the parties, if this Court is inclined to allow the petition, heavy cost may be imposed upon the petitioners.

5. Undisputedly, offence punishable under Section 307 IPC is not compoundable, however, considering the facts and circumstances of the case and in exercise of the inherent powers under Section 482 of the Code of Criminal Procedure, 1973, this Court has power to accept the compromise.

6. Under the circumstances and looking to the decision of the Supreme Court in the case of ***Gian Singh Vs. State of Punjab and Another (2012) 10 SCC 303***, wherein the Apex Court has referred to a number of matters for the proposition that even a non-compoundable offence can also be quashed on the ground of a settlement agreement between the offender and the victim, if the circumstances so warrant; by observing as under:-

“58.However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated.”

7. The aforesaid view has been affirmed by the Apex Court in the case of ***Narinder Singh & Ors. Vs. State of Punjab & Another 2014 6 SCC 466*** wherein held as under:-

29. *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:-*

29.1 *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.*

29.2. *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.

29.3. *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 the 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.*

29.4. *On the other hand, those criminal cases having overwhelmingly and predominantly 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.

29.5. *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.*

29.6. *Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are 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 IPC 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 IPC 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 IPC. 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 latter 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.*

29.7. *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 to a conclusion as to whether the offence under Section 307 IPC 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 IPC 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.”

8. Both the parties who are present in the Court today, approbate the aforesaid settlement/compromise deed dated 18.11.2014 and their statements made today in the Court and undertake to remain bound by it.

9. As discussed above, offence punishable under Section 307 IPC is not compoundable being of serious nature, however, if the Court feels that continuation of criminal proceedings will be an exercise in futility and justice in this case demands that the dispute between the parties is put to

an end and peace is restored, it can order for quashing of the FIR or criminal proceedings as it is the duty of the Court to prevent continuation of unnecessary judicial process.

10. In view of the law discussed above, considering the settlement arrived at between the parties and the statements of respondent Nos.2 and 3, and learned APP for the State, I am of the considered opinion that this matter deserves to be given a quietus as continuance of proceedings arising out of the FIR in question would be an exercise in futility.

11. Consequently, FIR No.48/2013 registered at Police Station Sun Light Colony, New Delhi for the offences punishable under Sections 307/34 of the IPC read with Section 25/27 Arms Act, 1959 and all proceedings emanating therefrom, are hereby quashed.

12. Before parting with this order, I find force in the submission of learned APP for State regarding putting the petitioners to some terms. At this stage, petitioner Nos.1 and 2 have come forward and submitted that they are ready to contribute a sum of Rs.50,000/- each for some welfare purposes.

13. Respondent No.3/ injured stated to be pursuing his Intermediate examination from Bihar. Therefore, both petitioner Nos.1 & 2 are directed to pay an amount of Rs.50,000/- each in favour of respondent No.3 within four weeks from today. Both petitioners are directed to deposit the said amount in the bank account of respondent No.3 bearing account No.31475099178 maintained with State Bank of India. The original proof of such deposition of cost in the bank account shall be furnished by petitioner Nos.1 & 2 before learned Trial Court under intimation to the

Investigating Officer/SHO concerned.

14. In view of the above, the present petition is allowed.

SURESH KAIT
(JUDGE)

OCTOBER 06, 2015

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