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

Judgment delivered on: 21st July, 2015

+ **CRL.M.C. No.2874/2015**

SUMIT & ANR. Petitioners

Represented by: Mr. Sagar Hajelay, Advocate
with Petitioners in person.

Versus

STATE & ANR. Respondents

Represented by: Mr. M.N. Dudeja, Additional
Public Prosecutor for the State
with ASI Om Prakash, P.S.
Mandir Marg.
Respondent No. 2 in person.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

Crl. M.A.10253/2015 (for exemption)

Exemptions allowed, subject to all just exceptions.

Accordingly, the application is allowed.

CRL.M.C. 2874/2015

1. By way of this petition filed under Section 482 of the Code of Criminal Procedure, 1973, petitioners seek quashing of FIR No. 52/2015 registered at Police Station Mandir Marg for the offences punishable under Sections 147/149/186/353/506 IPC and the consequential proceedings emanating therefrom against the petitioners.

2. Learned counsel appearing on behalf of the petitioners submits that the aforesaid case was registered on the complaint of respondent No.2, Dr. Arvind Kumar, due to misunderstanding of the petitioners. Since the petitioners have apologized before the respondent No.2, the complainant does not want to pursue the case further against the petitioners. Moreover, the case is at the initial stage of investigation.

3. Respondent No. 2 is personally present in the Court and has been identified by ASI Om Prakash of Police Station New Ashok Nagar, Investigating Officer of the case. He submits that due to some misunderstanding, the incident in question took place. In fact, relative of the petitioner had died due to which, the petitioners emotionally burst out and lost their control and as a result of the same incident in question happened. He submits that the medical profession is considered a noble profession because it helps in preserving life, given by God. Thus, a doctor's job is of responsibility. Respondent No.2 further submits that the matter has been settled amicably between them and he does not want to pursue the case further against the petitioners.

4. In support of the present petition, respondent No.2 has filed the affidavit dated 17.07.2015 and affirms the contents thereof and submits that now no dispute with petitioners survives and so, the proceedings arising out of the FIR in question be brought to an end.

5. Learned Additional Public Prosecutor appearing on behalf of the State submits that the case is at the initial stage of investigation, neither any MLC has been conducted on the respondent No.2/complainant nor weapon of offence is recovered. Moreover, the complainant himself has come forward not to support the case against the petitioners, therefore, if this Court is inclined to allow the present petition, the State has no

objection. However, heavy cost may be imposed upon the petitioners to deter them not to repeat such type of incidents in future.

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

“ Resolution of a dispute by way of a compromise between two warring groups, therefore, should attract the immediate and prompt attention of a court which should endeavour to give full effect to the same unless such compromise is abhorrent to lawful composition of the society or would promote savagery.

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.”

7. While recognizing the need of amicable resolution of disputes in cases like the instant one, the aforesaid dictum has been affirmed by the Apex Court in a recent judgment in ***Narinder Singh & Ors. Vs. State of Punjab & Anr. 2014 6 SCC 466***. The pertinent observations of the Apex Court are 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. Keeping in view the legal position discussed above, facts and circumstances of the case, settlement arrived at between the parties and the statement of respondent No.2, 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.

9. So far as imposition of cost is concerned, I find force in the submission of the learned Additional Public Prosecutor.

10. Consequently, subject to petitioners' paying costs of Rs.15,000/- each in favour of the High Court Legal Services Committee within two weeks from today, FIR No. 52/2015 registered at Police Station Mandir Marg for the offences punishable under Sections 147/149/186/353/506 IPC and all proceedings emanating therefrom stand quashed qua the petitioners.

11. Proof of deposit of costs shall be furnished to the Registry with intimation to concerned Investigating Officer.

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

13. A copy of this order be given *dasti* to the learned counsel for the parties.

**SURESH KAIT
(JUDGE)**

JULY 21, 2015

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