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

\+ W.P.(CRL) 2166/2015

RAKESH DEVI & ORS ..... Petitioners
Through: Mr.Ashok Thagal, Advocate.

versus

STATE OF NCT OF DELHI & ORS. ..... Respondents
Through: Mr.Rajesh Mahajan, ASC.
Mr.Vishwa Ranjan Kumar, Advocate for the respondent Nos.2 to 5.
ASI Ramesh Kumar, P.S.Burari.

\+ W.P.(CRL) 2160/2015

MANOJ GUPTA ..... Petitioner
Through: Mr.Vishwa Ranjan Kumar, Advocate.

versus

STATE OF NCT OF DELHI &ANR. ..... Respondents
Through: Mr.Vishesh Wadhwa, Advocate for Mr.R.S.Kundu, ASC.
Mr.Ashok Thagal, Advocate for the respondents.
ASI Ramesh Kumar, P.S.Burari.

CORAM:
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% 01.12.2015

Crl.M.A No.14227/2015 & Crl. M.A.14220/2015

Exemption granted subject to all just exceptions.

Applications stand disposed of.

W.P. (Crl) 2166/2015 & W.P. (Crl) 2160/2015

1. This Court shall dispose of W.P. (Crl) 2166/2015 & W.P. (Crl) 2160/2015 by this common order as these cases arise from cross-case FIR's.

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By:AMULYA

2. The petitioners in W.P. (Crl) 2166/2015, seek quashing of FIR No. 937/2015 (PS Burari) instituted for offence under Sections 308/34 IPC of the IPC. On the other hand, the Petitioner in W.P. (Crl) 2160/2015, seeks quashing of FIR No. 936/2015 (PS Burari) instituted under Sections 279/337/354/323/506/34 of the IPC.

3. Both the parties seek quashing of the aforementioned FIR's on the strength of an amicable settlement having been arrived at between them.

4. The subject FIR's came to be registered due to a road accident which had occurred on 29.07.2015. The petitioners and the respondents reside in the same locality and are known to each other. It is submitted that on the said date, Rakesh Devi (Petitioner No.1 in W.P. (Crl) 2166/2015), whilst on her way to the marketplace, was hit by the car belonging to Mukesh Gupta and Umesh Gupta (Respondent nos. 2 and 3, respectively, in W.P. (Crl) 2166/2015) which led to a heated argument. Subsequently, Naveen Kumar and Himanshu (Petitioner No.2 and 3, respectively, in W.P. (Crl) 2166/2015), nephews of Rakesh Devi, also joined in and a scuffle broke out between the parties which led to the registration of the subject FIR's.

5. It is submitted that both parties suffered superficial injuries and had acted in the heat of the moment. It is further submitted by the counsels on behalf of the parties, that they have realized their mistakes and with the intervention of well wishers and elders of the community they have agreed to amicably resolve their disputes without any caveat and have agreed to compound the said offences. It is further submitted that all the disputes

between both the parties have been amicably settled, resolved and compromised to their respective satisfaction.

6. The parties are present in Court.

7. The investigation in the matter is still continuing and the charge-sheet have not yet been filed.

8. Upon a conspectus of the facts and circumstances, this Court is of the opinion that the nature of the disputes between the parties are completely interpersonal and have been completely redressed. Furthermore no fruitful purpose would be served in further prosecution. In view of the aforementioned observations this Court is inclined to quash the present FIRs.

9. The Supreme Court has further observed in Gian Singh vs. State of Punjab & Another (Supra):

> *"58..... No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. 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. 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. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed." [Refer to B.S. Joshi, (2003) 4 SCC 675; Nikhil Merchant, (2008) 9 SCC 677 and Manoj Sharma, (2008) 16 SCC 1.]

10. 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 chargesheet 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."*

11. Thus, the inherent powers of the High Court, having a wide plenitude could be used for quashing the FIR's for securing the ends of justice and to prevent the abuse of the process of the court.

12. The subject FIR's (FIR Nos. 937/2015 & 936/2015, PS Burari) and the emanating proceedings thereof are, for the reasons aforestated, quashed.

13. The petitions are disposed of in terms of the aforesaid.

ASHUTOSH KUMAR, J

DECEMBER 01, 2015
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