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

Judgment delivered on: 1st December, 2015

\+ CRL.M.C. 4439/2015

SIMMI GROVER & ORS. ..... Petitioners

Represented by: Mr. O.P. Saxena with Mr. Sanjay Verma, Advs. for petitioner nos. 1 to 3.
Mr. Jayant K. Sood with Mr. Pranshu Dhingra, Advs. for petitioner no.4.

versus

THE STATE (NCT OF DELHI) & ANR ..... Respondents

Represented by: Mr. Kamal Kr. Ghai, APP for State with SI Suresh Kumar, PS-K.N. Katju Marg.
Mr. Jawahar Chawla, Adv. for Respondent no. 2 with respondent no. 2 in person.

CORAM:
HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

\+ **CRL.M.C. 4439/2015**

1. By way of the present petition filed under Section 482 Cr.P.C., petitioners seek directions thereby quashing of FIR No.299/2011 registered at Police Station K.N. Katju Marg, Delhi for the offences punishable under Sections 420/467/468/471/120-B IPC against them.

2. Learned counsel appearing on behalf of the petitioners submits that the aforesaid case was registered on the complaint filed under Section 156(3) Cr.P.C. by respondent No.2, namely, Ms. Roopali Kapoor, which

culminated into the FIR mentioned above. Thereafter, the petitioners and respondent no. 2 entered into an agreement dated 16.08.2013 and agreed to remain bound by the same. As per the settlement, petitioners agreed to deposit an amount of Rs.10,00,000/- as full and final settlement to the Corporation Bank, Tilak Nagar Branch towards loan account of petitioner nos. 1 and 2 being no. LICS/1/911297. Out of the settlement amount, petitioner no.4 was directed to deposit an amount of Rs.2,50,000/- and from the remaining amount of Rs.7,50,000/-, Rs. 3,75,000/- each was directed to be deposited by petitioner nos. 1 and 2 on one part and petitioner no. 3 on another part. It was further agreed that the amount of Rs.10,00,000/- shall be paid to the Bank in two equal instalments of Rs.5,00,000/- each, i.e, on 30.08.2013 and 30.10.2013 in the ratio of Rs.1,25,000/- by petitioner no. 4 and Rs.3,75,000/- by petitioner nos. 1 to 3. Ld. Counsel appearing on behalf of the petitioners submits that aforesaid amount has been deposited to the Bank mentioned above and consequent thereto, the Bank has issued the final settlement letter dated 24.07.2014 and has withdrawn OA No. 121/2011 pending before DRT-III, vide its order dated 05.03.2015. Therefore, the respondent no. 2 does not want to pursue the case further against the petitioners.

3. Respondent No.2 is personally present in the Court through her counsel. She has been duly identified by SI Suresh Kumar, Investigating Officer of the case. Learned counsel on instructions submits that the respondent no. 2 is the owner of property bearing no. H-2/63 and H-2/64, Sector 16, Rohini, Delhi and Petitioner no. 3 Sandeep Pawar sold the said property on the forged document to the petitioner no.1 and 2 who thereafter obtained loan against the said property from Corporation Bank,

Tilak Nagar Branch without knowledge and consent of the respondent no.2. Petitioner no.4 being the broker of the property forged some documents also. Accordingly, she made a complaint to the police. However, since the police did not take any action, she was compelled to file a complaint under Section 156(3) Cr.P.C, accordingly, FIR mentioned above was registered.

4. Learned counsel further submits that thereafter respondent no. 2 approached DRT and filed a Civil petition under The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and obtained stay. Thereafter the matter has been settled between the parties and the petitioners agreed to return the original documents, prepared by them, to respondent no.2, who shall be entitled and competent to approach the registering authority for cancellation of the sale deeds on the basis of the mediation settlement. He further submits that coming to this stage, she has been fighting in different Courts as more than 4 litigations were pending regarding the property in question. However, she received nothing but has only satisfaction that she will get her property back. Thus, if this Court is inclined to quash the FIR mentioned above, heavy cost be imposed upon the petitioners.

5. Learned APP appearing on behalf of the State submits that the present case is registered in the year 2011. He further submits that though the matter has been settled between the parties, however in this process, the govt. machine has been put into motion and precious public time of the Court has been consumed. Thus, if this Court is inclined to allow the petition, heavy cost be imposed upon the petitioners. He further submits that six more cases are also registered against petitioner no. 4, which are

as under:

Sl.No.	FIR	Under Section	Police Station	Status of the case
1.	96/2000	420/468/471/120B IPC	Pr. Vihar	Pending trial
2.	219/2008	420/468/471/120B/406/174 IPC	Pr. Vihar	Pending trial
3.	87/2012	420/468/471/120B IPC	K.N.K. Marg	Pending investigation
4.	600/2013	420/468/471/120B IPC	K.N.K. Marg	Pending investigation
5.	133/2007	420/467/468/471/120B IPC	S.P. Badli	Pending Trial
6.	826/2014	420/506 IPC	K.N.K. Marg	Pending investigation

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. 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:*
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> ***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. At this stage it is pointed out by the counsel for the respondent no.2 that as per the clause 10 of the settlement, it was agreed between the parties that the original sale deed in the name of Ms Simmi Grover (petitioner no.1) and the violation report pertaining to the properties bearing no.H-2/63 and H-2/64 (ground floors), Sector 16, Rohini, Delhi held by the Corporation Bank shall be returned to the complainant Rupali Kapoor/respondent no.2 who shall be entitled and competent to approach the registering authority for cancellation of the sale deeds on the basis of settlement dated 16.08.2013.

9. SI Suresh Kumar, Investigating Officer of the case, who is present in the court submits that the aforesaid documents have been sent to FSL for examination. Accordingly, the said officer is directed to receive those documents from the Director, FSL expeditiously and place the photocopyof the same on record and the original documents be returned to

the respondent no.2.

10. To avoid the delay, concerned Director, FSL is directed to examine the said documents on priority basis and hand over report within six weeks from today to the concerned Investigating Officer.

11. The order of this Court be sent to Director, FSL, Rohini for compliance.

12. Both the parties are present in the Court today, approbate to the aforesaid settlement dated 16.08.2013 and undertake to remain bound by the same.

13. Keeping in view the settlement arrived at between the parties, statement of respondent no.2 and ld. APP for the State and the settled legal position, FIR No. 299/2011, registered at Police Station K.N. Katju Marg, Delhi for the offences punishable under Sections 420/467/468/471/120-B IPC and all proceedings emanating therefrom are hereby quashed against the petitioners.

14. Before parting with the instant petition, I find force in the submission of ld. Counsel for respondent no. 2 and ld. APP for State on the issue of cost. However, learned counsel appearing on behalf of the petitioner nos. 1 to 3 on instructions submits that petitioner nos.1 and 2 and petitioner no. 3 are ready to compensate with an amount of Rs.75,000/- each and Rs.1,00,000/- respectively to respondent no.2. Learned counsel appearing on behalf of the petitioner no.4 on instructions submits that petitioner no. 4 is also ready to compensate with an amount of Rs.1.55 lacs to respondent no.2.

15. Accordingly, petitioners are directed to pay the amounts mentioned above to respondent no.2 within two months from today under prior intimation to the Investigating Officer concerned. Proof of the same shall be placed on record.

16. In view of the above, petition is allowed with no order as to costs.

SURESH KAIT
(JUDGE)

DECEMBER 01, 2015
Afa/jg