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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 2237/2015**
RAJINDER KUMAR & ORS

..... Petitioner

Through: Mr. Deepak Anand, K.K. Jha and
Mr.Vineet Kumar, Advs.

versus

STATE (NCT DELHI) & ORS

..... Respondent

Through: Mr.R.S. Kundu, ASC for the State
with Mr.Ankit Kr. Gulia, Adv.
SI Nitesh Bhardwaj, PS Jyoti Nagar

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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06.10.2015

CrI.M.A.14745/2015

Exemption granted subject to all just exceptions.

Application stands disposed of.

W.P.(CRL) 2237/2015

The petitioners are the members of one family and they have sought quashing of the FIR No.414/2015 (PS Jyoti Nagar) instituted for offences under Section 308/34 of the IPC on the strength of settlement/compromise with respondents No.2 and 3.

Respondent No.2 is the informant of the case whereas respondent No.3 is another injured person.

The allegation in the FIR is that when respondent No.2 was coming

back after having some drink, he was surrounded by the petitioners and was assaulted on his head. It has been submitted that the weapon used was a blunt weapon. However, during the investigation, the allegation of use of a firearm for threatening the respondent No.2 could not be substantiated. The injuries suffered by the respondents No.2 and 3 are stated to be simple caused by the hard and blunt substance.

It has further been stated that the petitioners and the respondents have entered into a compromise agreement on 18.9.2015 wherein the parties have decided to bury the hatchet and live peacefully hereafter.

The petitioners and respondents are neighbours. Petitioner No.1 is the father of petitioners No.2, 3 and 4 whereas the petitioner No.5 is the nephew of petitioner No.1.

In **Gian Singh vs. State of Punjab & Another**, (2012) 10 SCC 303, the Supreme Court has held that cases which are not compoundable under Section 320 of the Cr.P.C. could also be quashed, when continuation of any criminal proceeding would be an exercise in futility and where justice demands that the dispute between the parties should be put to an end and peace is restored. But ending of such criminal proceedings could only be ordered for securing the ends of justice.

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.]

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

Mr. R.S. Kundu, Additional Standing Counsel submits that the report with respect to nature of the injuries suffered by respondents No.2 and 3 is still awaited.

In response to such statement, the petitioner and respondents have stated that the respondents were discharged on the same day when they were

taken to the hospital for being suffered injuries.

The present FIR does not disclose any serious offence and the nature of the offence alleged cannot be stated to have any serious impact on the even tempo of society.

In the event of the settlement between the respondents and the accused persons (petitioners), the possibility of conviction has become very remote and bleak. Continuation of criminal proceeding in a case of this kind would put the petitioners to great oppression and prejudice and extreme justice will be caused to them.

Keeping in mind the facts of this case and the settlement between the parties as also the fact that petitioners No.2 to 5 are persons of young age and almost contemporaries of respondents No.2 and 3, allowing the criminal proceeding to be continued any further, would not be in accord with the guiding factor namely securing the ends of justice.

For the reasons aforerecorded FIR No.414/2015 and all the emanating proceedings thereof are quashed.

The petition is disposed of in terms of the above.

ASHUTOSH KUMAR, J

OCTOBER 06, 2015

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