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

+ W.P.(CRL) 3040/2015 & Crl. M.A.18676/2015

MAMTA SINGH

..... Petitioner

Through: Mr.Amitabh Chaturvedi, Advocate.

versus

GOVT OF NCT DELHI & ORS

..... Respondents

Through: Mr.R.S.Kundu, ASC.

Mr.Vaibhav Gulia, Advocate for the
respondent No.2.

SI Amit Kumar, P.S.Kotla
Mubarakpur.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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21.12.2015

Crl. M.A. No. 18676/2015

Exemption allowed subject to just exceptions.

The application stands disposed of.

W.P (Crl.) 3040/2015

The petitioner seeks quashing of FIR No. 431/2013 (PS K.M. Pur) instituted for offences under sections 420/468/471/120B of the IPC on the strength of a settlement having been arrived at with the complainant/respondent no.2.

The petitioner is the daughter of the complainant/respondent no.2.

The controversy in question pertains to a property bearing house No. 1491, Wazir Nagar, Kotla Mubarakpur, New Delhi (hereinafter referred to

as 'the property'). It is submitted that the petitioner sold the said property to one Pawan Kumar vide registered Sale Deed dated 05.09.2013, for a total consideration of Rs. 70 Lakhs. It is the said transaction which has been disputed by respondent no.2 and which led to the registration of the subject FIR and initiation of other legal proceedings.

As per the FIR, it was alleged that the said property was bequeathed to respondent no.2 by her sister i.e Rajinder Kaur by virtue of a will dated 18.10.1994 and that in order to alienate the said property, the petitioner had forged and fabricated another will/SPA. In order to protect her interests, the respondent no.2 filed a complaint under section 12 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as the 'DV Act') wherein ex-parte interim orders were passed directing the petitioner to allow the respondent no.2 to enter and reside in the said property, peacefully and without any hindrances. As a result thereof, the original purchaser of the said property, i.e Pawan Kumar, filed a suit bearing C.S. (OS) No. 2286/2013 before this Hon'ble High Court, seeking permanent prohibitory injunction claiming to be the legal owner of the said property. Besides the subject FIR and the complaint under the DV Act, respondent no.2 had also filed a suit before the Sr. Civil Judge, Saket Courts bearing Suit No. 712/2013.

It is submitted that during the pendency of the investigation in the subject FIR and the aforementioned proceedings, the parties have decided to amicably resolve all their disputes and differences and put an end to the pending litigation. In pursuance thereof, the parties had filed a joint application for compromise in suit proceedings bearing C.S. (OS) No. 2286/2013, pending before this Hon'ble High Court. The said suit was

accordingly decreed in terms of the said application vide order of this court dated 31.08.2013.

In terms of the compromise arrived at between the parties, Suit No. 712/2013 pending before the learned Sr. Civil Judge, Saket Courts and the Complaint Case under the DV Act pending before the learned Mahila Court, Saket Courts were withdrawn on 16.09.2013 and 28.09.2013, respectively. The respective orders recording withdrawal of the said cases and the aforementioned factum of compromise and have also been annexed with the present petition.

It is submitted, that in terms of the order dated 31.08.2015, a bench of this Court has, *inter alia*, passed a decree of declaration that the sale deed dated 05.09.2013 executed by the petitioner in favour of Pawan Kumar is legal, valid, binding and enforceable in law; a decree of declaration that the will dated 05.02.2009 executed by Smt. Rajinder Kaur (sister of respondent no.2) in favour of respondent no.2 with respect to the said property, was the subsequent will and superseded the earlier will dated 18.10.1994, which is no longer valid; passed a decree of declaration that the will dated 05.02.2009 is legal, binding and enforceable in law. It is further submitted, that in view of the aforementioned decree, the allegations of respondent no.2, regarding forgery and fabrication do not survive at all and that no useful purpose would be served in continuing the investigation in the subject FIR and the same may be quashed.

The parties are present in court

The investigation in the matter is still continuing.

It is submitted by respondent no.2, that in view of the compromise arrived at between the parties and the decree passed by this Hon'ble Court, she has no objection if the present FIR is quashed. The respondent no.2 has accepted the said compromise without any caveat and towards complete redressal of all her claims and disputes against the petitioner.

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.]

Considering the fact that the grievance of the respondent No.2 has been completely redressed, this Court is inclined to quash the subject FIR.

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.

The subject FIR (FIR No. 431/2013, PS K.M. Pur) and the emanating proceedings thereof are, for the reasons aforesaid, quashed.

The petition is disposed of in terms of the aforesaid.

ASHUTOSH KUMAR, J

DECEMBER 21, 2015

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