

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

Date of hearing and order: April 7th, 2016

+ CRL.M.C. 182/2016 & CrI.M.A. No.714/2016
RAJ KUMAR @ RAJU & ORS Petitioners
Through: Mr. Raj Kumar Verma, Advocate

versus

THE STATE (GNCT OF DELHI) & ORS Respondents
Through: Mr. Izhar Ahmad, Additional Public
Prosecutor for the State with Sub-
Inspector Satbir Singh, Police Station
Chhawla, Delhi

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI

P.S.TEJI, J. (Oral)

1. The present petition under Section 482 Cr.P.C. read with Section 483 Cr.P.C. has been filed by the petitioners, namely, Sh.Raj Kumar @ Raju, Sh. Ashok, Sh. Deepak Kumar, Sh. Sumit Kumar, and Sh. Gagan Singh for quashing of FIR No.85/2015, under Sections 323/325/506/34 of IPC registered at Police Station Chhawla, Delhi on the basis of the Memorandum of Understanding arrived at between the petitioners and respondent nos.2 to 6, namely, Sh. Tule Ram, Smt. Suman, Sh. Om Parkash, Smt. Nirmala, and Sh. Deepak Kumar, respectively.

2. The factual matrix of the present case is that the FIR in question

was lodged by the complainant, namely, Mr. Tule Ram on the allegation that Sumit and Amit sons of Shri Krishan are his neighbours who would often stand in front of his house after consuming liquor and use vulgar language and once upon objection by respondent No. 3 - Suman, they threatened to kill the complainant and his family. It is alleged that on the night of 01.12.2014 when Amit, Sumit and Deepak were abusing, complainant's elder brother and his wife made them understand that they should not pick quarrel but the trio continued calling bad names. Thereafter, the complainant called on PCR 100. It is alleged that, in the meantime, Raju Ashok and Gungan also came with armed and sticks, axe and hockey. Police also reached at the spot. When the complainant alongwith his wife, elder brother, bhabhi and nephew Deepak went towards the police wan, it is alleged that Ashok attacked with axe on the head of the complainant's bhabhi - Nirmala, due to which she became unconscious. Sons of Raju alongwith their 4-5 friends also reached at the spot with hockey sticks and brutally attacked on the complainant party.

3. On the basis of the aforesaid statement, the present FIR was registered. Petitioner No.1 was arrested on 16.04.2015 and later on released on bail. Charge sheet was filed on 10.06.2015. However, with the intervention of family friends, relatives and well wishers of the society, respondent nos.2 to 6 and the petitioners mutually entered into the Memorandum of Understanding dated 18.06.2015 to resolve all their past disputes, differences etc. peacefully against each other.

4. Mr. Raj Kumar Verma, counsel for the petitioner contended that since both the parties belong to the same family and residing in the same locality/village and due to some misunderstanding, the unfortunate quarrel took place between the parties leading to registration of the present FIR and since all the disputes between the parties have now been amicably and peacefully settled, and the respondent Nos. 2 to 6 have also given their no objection to quashing of the FIR in question, therefore, the FIR in question and the proceedings emanating therefrom be quashed.

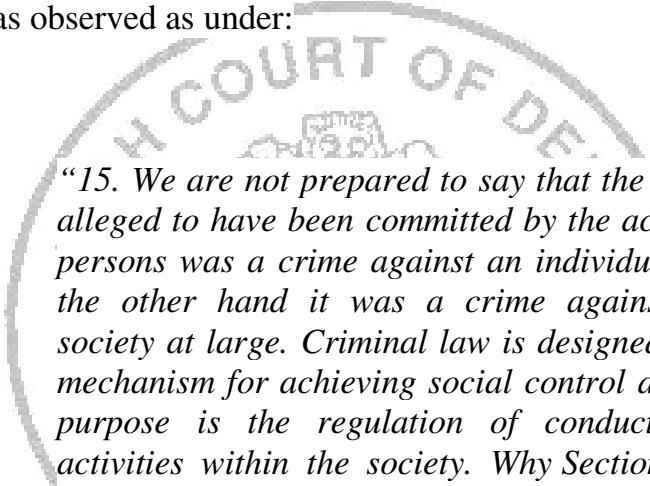
5. Mr. Izhar Ahmad, learned Additional Public Prosecutor for the State contended that the petitioners are charged with an offence punishable under Section 307, and the respondent No. 5 was attacked by petitioner No.2 – Ashok with the axe on her head due to which respondent No. 5 suffered with grievous injuries on her head, therefore the present petition filed by the petitioner deserves to be dismissed.

6. I have heard the submissions made by learned counsel for the parties and also gone through the material placed on record.

7. In *Gian Singh v. State of Punjab*, (2013) 10 SCC 303, the Hon'ble Supreme Court observed that heinous and serious offences of mental depravity, murder, rape, dacoity etc. or under special statutes like Prevention of Corruption Act or offences committed by public servants while working in their official capacity, cannot be quashed even though victim or victims family and the offender have settled the dispute. Such offences are not private in nature and have a serious

impact on the society. On similar point, reliance can be placed on *Narinder Singh v. State of Punjab (2014) 6 SCC 466* in which it was further observed that offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone.

8. Further in *State of Rajasthan v. Shambhu Kewat (2014) 4 SCC 149* it was observed as under:



“15. We are not prepared to say that the crime alleged to have been committed by the accused persons was a crime against an individual, on the other hand it was a crime against the society at large. Criminal law is designed as a mechanism for achieving social control and its purpose is the regulation of conduct and activities within the society. Why Section 307 IPC is held to be non-compoundable, is because the Code has identified which conduct should be brought within the ambit of non-compoundable offences. Such provisions are not meant just to protect the individual but the society as a whole. The High Court was not right in thinking that it was only an injury to the person and since the accused persons (sic victims) had received the monetary compensation and settled the matter, the crime as against them was wiped off. Criminal justice system has a larger objective to achieve, that is, safety and protection of the people at large and it would be a lesson not only to the offender, but to the individuals at large so that such

crimes would not be committed by anyone and money would not be a substitute for the crime committed against the society. Taking a lenient view on a serious offence like the present, will leave a wrong impression about the criminal justice system and will encourage further criminal acts, which will endanger the peaceful coexistence and welfare of the society at large.”

9. This Court further observes that the FIR in the present case has been registered under Sections 323/325/506/34 of IPC which clearly are offences against the society at large and not private in nature. As observed in the aforesaid cases i.e. ***Narinder Singh (supra)***, ***Shambhu Kewat (supra)*** and ***Gian Singh (supra)***, offences which are heinous and against the society shall not be compounded having regard to nature of injuries and the magnitude of impact even though the victims and the offenders have compromised their matter and seek the quashing of the FIR in the case.

10. Applying the ratio/principle laid down in the aforesaid cases to the facts of the present case, this Court finds that the injuries inflicted to the respondent No. 5 were very serious in nature. The accused persons were armed with sticks, axe and hockey and gave a blow with an axe on the head of the respondent No. 5.

11. In view of the aforesaid discussions and on the basis of the facts and circumstances of this present case, this Court does not find it a fit case to quash the FIR No. 85/2015, under Sections 323/325/506/34 of

IPC registered at Police Station Chhawla, Delhi. Accordingly, the present petition filed by the petitioner is hereby dismissed.

(P.S.TEJI)
JUDGE

APRIL 07, 2016

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