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

+ W.P.(CRL) 254/2016

RAJIV KOCHHAR

..... Petitioner

Through: Mr.Manav Gupta, Ms.Esha Dutta and
Mr.Avinash Kr.Sharma, Advocate.

versus

THE STATE AND ANR

..... Respondents

Through: Mr. Sanjay Lao, A.S.C. for the State
with SI Sandeep Kumar PS Sarita
Vihar
Ms.Prabhsahay Kaur, Advocate for
Respondent No.2.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **11.02.2016**

1. The present writ petition has been filed by the Petitioner under Articles 226 & 227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure for quashing of FIR No. 74/2011, under Sections 471/420/448/468 IPC, registered at P.S. Sarita Vihar, Delhi and consequential proceedings arising therefrom.

2. Brief facts, as mentioned in the petition are that the above FIR was registered on the complaint of Respondent No.2 as he claimed to be owner of SFS Flat No.696, Pocket-C, 2nd Floor, Sarita Vihar, N.Delhi, which was sold to the petitioner by some Amit Jain. On visiting the said flat, he found some tenant staying there, who told him that petitioner herein is the owner of the flat.

3. After registration of the FIR in question, the parties reached an

amicable settlement. The factum of said settlement has been mentioned by respondent No.2 in his affidavit filed along with this application as Annexure 5 (colly). It is also mentioned in the application that the respondent No.2 gave a written intimation to the SHO, PS Sarita Vihar stating the fact that he has already settled the matter with the complainant and does not wish to pursue the FIR. The said intimation is annexed as Annexure 7 along with this application.

4. Respondent No.2/complainant is present in Court today alongwith his counsel. He submits that he has amicably settled the dispute with the Petitioner and is not interested in prosecuting the Petitioner and submits that the said FIR and all proceedings emanating therefrom may be quashed.

5. On behalf of the State, it is submitted that although offences under Sections 471/468 IPC are non-compoundable in nature, however, in view of the fact that the parties have settled the matter by way of mediation settlement and in view of decision of the Hon'ble Supreme Court in the case of ***Gian Singh v State of Punjab & Anr. 2012 (9) SCALE 257***, appropriate orders may be passed by this Court.

6. Offences punishable under Sections 471/468 IPC are non-compoundable offences. In the decision in the case of ***Gian Singh v State of Punjab & Anr. (supra)***, the three Judges Bench of the Supreme Court dealing with the issue of quashing of FIR has observed as under:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences Under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i)

to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil favour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

7. In view of the aforesaid mediation settlement arrived at between the

parties, I am of the considered view that no useful purpose would be served by continuing the criminal proceedings against the Petitioner, which will only be an exercise in futile and wastage of precious time of the Court.

8. Accordingly, the petition is allowed and FIR No. 74/2011, under Sections 471/420/448/468 IPC, registered at P.S. Sarita Vihar, Delhi and consequential proceedings arising therefrom are hereby quashed subject to deposit of cost by the Petitioner herein.

Order *dasti*.

PRATIBHA RANI, J.

FEBRUARY 11, 2016

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