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

\+ W.P.(CRL) 239/2016

KAPIL GARG & ANR ..... Petitioners
Through: Ms.Sima Gulati & Mr.S.P.Mukherjee, Advocates with petitioners in person.

versus

STATE NCT OF DELHI & ANR ..... Respondents
Through: Mr.Avninder Singh, A.S.C. for the State/R-1 with Ms.Ananya Mohan, Adv. and SI Darpan Singh PS New Friends Colony.
Mr.Sugam Puri & Mr.Nitin K.Sharma, Advocates for R-2 with R-2 in person.

CORAM:
HON'BLE MS. JUSTICE PRATIBHA RANI

O R D E R

% **17.03.2016**

1. By way of this writ petition filed under Article 226 of the Constitution of India read with Section 482 of Cr.P.C., the petitioners are seeking quashing of FIR No.38/2015 under Sections 323/341/506/34 IPC registered at PS New Friends Colony and consequential proceedings arising therefrom, on the basis of settlement arrived at between the parties.

2. Briefly stating, case FIR No. 38/2015 has been registered at PS New Friends Colony on the basis of complaint made by the complainant/respondent No.2 to the effect that he was working as a Gym Trainer at Hotel Surya. On 25.01.2015 at about 8.00 pm when he was present in the Gym, one person namely Romy Garg i.e. petitioner No.2, who

was member of Gym and had a scuffle with him on 24.01.2015, came there alongwith his brother Kapil Garg i.e. petitioner No.1. Thereafter petitioner No.2 told petitioner No.1 that he (complainant) is the Trainer, who did not listen to him yesterday and thereafter they both started beating him and also threatened to kill him. When he cried for help, the hotel staff came there and saved him. The matter was reported to the police and on the basis of above statement, the FIR in question has been registered against the petitioners.

3. It is mentioned in the petition that cross FIR No.105/2015 under Section 323/34/341/506 IPC after an inordinate delay has been got registered on 16th March, 2015 at PS New Friends Colony by petitioner No.1 herein namely Kapil Garg in respect of the same incident.

4. It is further mentioned in the petition that parties have arrived at an amicable settlement out of their own free will. The copy of MOU has been annexed with the petition as Annexure-B.

5. Petitioners as well as respondents No.2 are present in person with their respective counsel.

6. Respondent No.2/complainant submits that due to this incident, he has already lost his job and suffered a lot. Till date even relieving letter has not been issued to him by his employer. He further submits that he has entered into amicable settlement with the petitioners out of his own sweet will and without any fear, coercion or undue influence from any corner and that he has received a compensation of ₹1,40,000/- from the petitioners. Respondent No.2 submits that he has no objection if the FIR in question is quashed qua the petitioners.

7. Learned counsel for the petitioners submits that the parties have

resolved the dispute amicably and the petitioners have also paid a sum of ₹1,40,000/- to the complainant/respondent No.2 as compensation.

8. Learned counsel for the petitioners and complainant submit that after the matter in dispute has been amicably settled between the parties, no purpose would be served in prosecuting the petitioners, therefore the FIR in question and criminal proceedings emanating therefrom may be quashed.

9. Learned ASC for the State/R-1 submits that since the parties have amicably arrived at an amicable settlement, appropriate orders may be passed in view of the observations made by the Apex Court in ***Gian Singh v State of Punjab & Anr. 2012 (9) SCALE 257*.**

10. The FIR registered in this case is for committing the offences punishable under Sections 323/341/506/34 IPC. Offence punishable under Section 506(Part-I) IPC is non-compoundable offence. In the decision in the case of ***Gian Singh v State of Punjab & Anr. 2012 (9) SCALE 257***, 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-dominatingly 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."

11. In view of the aforesaid amicable 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 Petitioners, which will only be an exercise in futile and wastage of precious time of the Court.

12. Accordingly, the petition is allowed and FIR No.38/2015 under Sections 323/341/506/34 IPC registered at PS New Friends Colony and consequential proceedings arising therefrom are hereby quashed.

13. As prayed, copy of the order be given dasti to learned counsel for the parties.

PRATIBHA RANI, J.

MARCH 17, 2016/*'st'*