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

+ **W.P.(CRL) 349/2016**

ANKIT BHANDARI & Ors. Petitioners

Through: Mr.Rajesh Sharma, Adv.

versus

STATE AND Ors. Respondents

**Through: Mr.Parul Jamwal for Mr.Rajesh
Mahajan, ASC for the State.**

SI Kuldeep Singh, PS Hari Nagar.

Respondent No.2 in person.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

19.05.2016

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1. The present writ petition has been filed by the Petitioners under Articles 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure for quashing of FIR No. 1021/2015, under Sections 420/467/468/471/34 IPC, registered at P.S. Hari Nagar, Delhi and consequential proceedings arising therefrom.

2. Brief facts, as mentioned that respondent no.2 paid money through cheques on different dates for some investment scheme run by the petitioners. Dispute arose between the parties and the respondent no.2 asked the petitioners to refund the amount. The petitioners refused to refund the money and thereafter the present FIR came into existence on the complaint of Respondents.

3. It has been stated that both the parties have arrived at an amicable

settlement out of their own sweet will, without any pressure and force from any corner and complainant does not wish to pursue the criminal case against the Petitioners any further and pray that the said FIR and all proceedings emanating therefrom may be quashed.

4. Respondent No.2 is present in person and affirms the factum of settlement with the petitioners. He further submits that he has no objection if the FIR in question is quashed qua the petitioners.

5. On behalf of the State, it is submitted that currently the trend emerging is to initiate criminal proceedings to pressurize the other party to make the payment/settle the dispute in order to avoid arrest and prosecution, hence some cost must be imposed on the parties for wasting the precious time of the Court and using the State machinery.

6. The present FIR is registered under Sections 420/467/468/471/34 IPC, Offences punishable under Sections 467/468/471 IPC, are non-compoundable offences. 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.”

7. 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.

8. However, in the facts and circumstances of the case, it is desirable that the Petitioners must be burdened with cost. Accordingly, the Petitioners are directed to deposit a cost of Rs 25,000/- with the “Army Central Welfare Fund” at Director, Accounts Section, Room No.281B, Ceremonial and Welfare Directorate, Adjutant General’s Branch, South Block, Integrated HQ of MoD (Army), New Delhi, within four weeks from today and proof thereof shall be placed on record.

9. Accordingly, the petition is allowed and FIR No. 1021/2015, under Sections 420/467/468/471/34 IPC, registered at P.S. Hari Nagar, Delhi and consequential proceedings arising therefrom are hereby quashed subject to deposit of cost by the Petitioner herein.

10. A copy of this order be sent to the Director, Accounts Section, Room No.281B, Ceremonial and Welfare Directorate, Adjutant General’s Branch, South Block, Integrated HQ of MoD (Army), New Delhi for information.

Order *dasti*.

PRATIBHA RANI, J

MAY 19, 2016
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