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

+ W.P.(CRL) 459/2016

GAURAV & ORS

..... Petitioners

Through: Mr.Rishi Sood, Advocate

versus

STATE OF NCT OF DELHI & ANR

..... Respondents

Through: Mr.Avininder Singh, A.S.C. for the
State

Mr.Ashutosh Gupta, Advocate for
Respondent No.2.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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18.03.2016

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 petitioner is seeking quashing of FIR No.159/2015 under Sections 323/341/506/34 IPC registered at PS Harsh Vihar, Delhi and consequential proceedings arising therefrom, on the basis of settlement arrived at between the parties.

2. Briefly stating, case FIR No. 159/2015 has been registered at PS Harsh Vihar Colony on the basis of complaint made by the complainant/respondent No.2 against the petitioners, who are close neighbours and had a quarrel over the issue that the mother of the petitioners had abused the respondent No.2 which escalated into violence. He reported the matter to the police and got registered a case under Section 323/341/506/34 IPC against the petitioners.

3. It is further mentioned in the petition that parties have arrived at an

amicable settlement out of their own free will. The copy of settlement has been annexed with the petition as Annexure-P-2.

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

5. Learned counsel for the petitioners submits that the parties have resolved their dispute amicably and they have no grievance whatsoever against each other.

6. Respondent Nos.2 affirm that he has settled the dispute with the petitioners and he has no objection if the FIR in question is quashed qua the petitioners.

7. 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.***

8. 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-II) 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-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.”

9. 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.

10. Accordingly, the petition is allowed and FIR No.159/2015 under Sections 323/341/506/34 IPC registered at PS Harsh Vihar, Delhi and consequential proceedings arising therefrom are hereby quashed.

11. Order dasti.

PRATIBHA RANI, J.

MARCH 18, 2016

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