

S-33 & 34

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

+ W.P.(CRL) 759/2016

RAJ SINGH & ANR

..... Petitioners

Through: Mr.Sanjay Rathi, Advocate

versus

STATE OF NCT DELHI & ORS

..... Respondents

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

Mr.Abhinav Agnihotri, Advocate for
R-2 & 3

AND

+ W.P.(CRL) 934/2016

SWAMY SATYANAND

..... Petitioner

Through: Mr.Sanjay Rathi, Advocate

versus

STATE (NCT DELHI) & ORS

..... Respondents

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

Mr.Abhinav Agnihotri, Advocate for
R-2 & 3

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

%

31.03.2016

WP(CRL.) 759/2016 & WP(CRL.) 934/2016

1. The present writ petitions have been filed by the Petitioners under Articles 226 of the Constitution of India read with Section 482 of Cr.P.C. for

WP(CRL.) 759/2016 & WP(CRL.) 934/2016

page 1 of 4

quashing of FIR No. 0013/16 registered under Sections 384/420/506/120 IPC, registered at P.S. Barakhamba Road, New Delhi and consequential proceedings arising therefrom.

2. The facts of the case as mentioned in status report are as under:

"It is submitted that case FIR No. 13/16 dated 02/02/16 w/S 384/420/506/120-B IPC P.S. Barakhamba Road, New Delhi was registered on the complaint of Sh. Pradeep Kumar Deb alleging therein that during September, 2001, he along with his wife Mrs. Renu Deb, purchased two piece of agriculture land at Rishikesh, Uttrakhand from Petitioner No. 1. The area measuring 0.92 acres, valued at ₹1,20,000 was purchased by him for which a registered sale deed was executed on 01/09/2001. Another piece of land area measuring 2.96 acres, valued at ₹4,00,000 was purchased in the name of his wife namely Renu Deb for which an agreement to sell was executed on 01/09/2001. The Petitioner No.1 also executed a GPA in favour of one Shiv Dayal Rai & kept assuring the Complainant that that he will register this land in the name of Renu Deb through Shiv Dayal or himself whenever she wants. Possession was taken over by Raj Singh and his wife. Thereafter, complainant has been constantly requesting Petitioner No. 1 to execute the sale deed in favour of Renu Deb but he has been avoiding the same by giving one or other unsatisfactory excuses.

3. After registration of the FIR in question, the parties reached an amicable settlement and the said terms are drawn in writing in terms of the Memorandum of Understanding dated 27.02.2016 which is filed along with this petition as Annexure P-3. Affidavit regarding amicable settlement between respondents/complainants and petitioners have also been placed on record by respondents/complainant in court today.

4. Respondent Nos.2 & 3/complainants are present in Court today. They submit that they have amicably settled the dispute with the Petitioners and

4

are not interested in prosecuting the Petitioners and submit that the said FIR and all proceedings emanating therefrom may be quashed.

5. Offences punishable under Sections 384/120-B 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

5

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."

6. In view of the aforesaid compromise 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.

7. Accordingly, the petitions are allowed and FIR No. 0013/16 registered under Sections 384/420/506/120-B IPC, registered at P.S. Barakhamba Road, New Delhi and consequential proceedings arising therefrom is hereby quashed subject to deposit of cost by the Petitioners herein.

Order dasti.

MARCH 31, 2016

'da'/'hkaur'


PRATIBHA RANI, J.