

\$~18

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

+ **W.P.(CRL) 854/2016 & CrI. M.A. 4657/16**

GAURAV KAMRA

..... Petitioner

Through: Mr.Bharat Bhushan, Advocate.
Petitioner in person.

versus

THE STATE OF NCT OF DELHI & ANR

..... Respondents

Through: Ms.Ananya Mohan, Advocate with
Mr.Avininder Singh, A.S.C. for the
State
Complainant/R-2 in person.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **28.04.2016**

1. The present writ petition has been filed by the petitioner under Articles 226 & 227 of the Constitution of India read with Section 482 CrPC seeking quashing of FIR No.1240/2015, under Sections 380/511 IPC, registered at PS Shalimar Bagh, Delhi and the consequential proceedings emanating therefrom.

2. Briefly stating the case FIR No.1240/2015 has been registered on the basis of the complaint made by the respondent No.2/Complainant to the effect that she was running a business and used to supply butter paper lines to Britannia Industries. The goods worth ₹12 lacs were lying in her office and on the date of incident i.e. 14.10.2015 the petitioner alongwith his co-accused Deepanshu unauthorizedly removed goods from her office. She knew both the accused persons as accused Deepanshu was partner in her another business under the name of Visaga Creations and petitioner Gaurav

Kamra is brother of Saurabh Kamra, who is another partner in Vasaga Creations. She reported the matter to the police and FIR in question was registered against the petitioner and his co-accused.

3. It is mentioned in the petition that during the pendency of the proceedings, the matter was referred to Mediation Centre where parties arrived at an amicable settlement.

4. It is further mentioned in the petition that the parties have settled the matter before Mediation Centre, Rohini Court, Delhi and copy of the said settlement dated 21.11.2015 has been placed on record.

5. Learned counsel for the petitioner has placed on record the copy of order dated 11.03.2016 passed in W.P.(Crl.) No.238/2016 whereby the FIR in question qua co-accused Deepanshu has been quashed.

6. Learned counsel for the petitioner submits that since the parties have arrived at an amicable settlement before the Mediation Centre and FIR qua co-accused Deepanshu has already been quashed by this Court, the petition may be allowed and FIR in question may be quashed qua the present petitioner.

7. Respondent No.2 is present in person and submits that she has settled the matter with the petitioner and other co-accused Deepanshu before Mediation Centre, Rohini Courts. Respondent No.2 further submits that she has no objection if the FIR in question is quashed qua the Petitioner.

8. On behalf of the State/R-1, it is submitted that currently the trend emerging is to initiate criminal proceedings to pressurize the other party to 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.

9. The FIR in question has been registered for committing the offences punishable under Section 380/511 IPC which 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-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.”

10. In view of the aforesaid amicable settlement arrived at between the parties, and quashing of FIR qua co-accused Deepanshu, 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.

11. However, in the facts and circumstances of the case, it is desirable that the Petitioner must be burdened with cost. Accordingly, the Petitioner is directed to deposit the cost of ₹10,000/- with the Victims’ Compensation Fund, Government of NCT of Delhi within a period of two weeks from today and proof thereof shall be placed on record.

12. Accordingly, the petition is allowed and FIR No.1240/2015, under Sections 380/511 IPC, registered at PS Shalimar Bagh, Delhi and consequential proceedings arising therefrom are hereby quashed subject to deposit of cost by the Petitioner as directed above.

13. The parties shall abide by the terms of the settlement as arrived at between the parties.

Order *dasti*.

PRATIBHA RANI, J.

APRIL 28, 2016

‘hkaur’