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

+ **W.P.(CRL) 875/2016**

RAJ KUMAR AGGARWAL & ANR Petitioners

Through: Mr.Sandeep Garg and Ms.Priya Saxena, Advocates with Petitioner in person.

versus

**THE STATE GOVERNMENT OF NCT OF
DELHI & ANR**

..... Respondents

Through: Mr. Sanjay Lao, A.S.C. for the State with Mr.Siddarth Sindhu, Advocate with SI Sudhir Sharma & HC Dheeraj, PS S.L.Colony with complainant in person.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **19.05.2016**

W.P.(CRL) 875/2016 & Crl. M.A. 4775/2016 (Stay)

1. The present writ petition has been filed by the Petitioner under Articles 226/227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure for quashing of FIR No. 94/2016, under Sections 380 IPC, registered at P.S. Sunlight Colony, Delhi and consequential proceedings arising therefrom.

2. Brief facts, as mentioned in the petition are that the FIR came into

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existence on the complaint of Respondent No.2 on the complaint that she had purchased one shop on the ground floor of the property bearing No. 98,

3. Hari Nagar, Ashram, New Delhi-110014 in the name of her daughter from Raj Kumar Aggarwal on 17.12.2015 along with all its fixtures and fittings. After taking possession of the said shop, the complainant started renovation work in the said shop to make it habitable. After the completion of the renovation work the laborers who were employed, inadvertently handed over the keys of the said shop to Gaurav Gupta @ Lavi, who is brother of the complainant and has a shop in the same vicinity. On the next day when the complainant opened the said shop, the iron safe was found missing which was containing valuables and cash of the complainant. Hence FIR No. 94/2016 under Section 380 IPC was registered at PS Sunlight Colony.

4. 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 and complainant does not wish to pursue the criminal case against the Petitioner any further and want that the said FIR and all proceedings emanating therefrom may be quashed.

5. Learned counsel for the Petitioner submits that the Petitioner has already returned the gold chain and ₹2 lac to the complainant and since the matter in dispute has been amicably settled between the parties, no purpose would be served in prosecuting the Petitioner any more, therefore, the FIR may be quashed.

6. Respondent No.2, complainant, is present in Court today alongwith her counsel. She submits that she has already received the gold chain and said amount of ₹2 lac from the Petitioner. She also affirms that she has

amicably settled the dispute with the Petitioner and is not interested in prosecuting the Petitioner and submits that the said FIR and all proceedings emanating therefrom may be quashed.

6. On behalf of the State, it is submitted that some cost must be imposed on the parties for wasting the precious time of the Court and using the State machinery.

7. Offences punishable under Sections 380 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.”

8. 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.

9. 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 ₹20,000/- 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.

10. Accordingly, the petition is allowed and FIR No. 94/2016, under

Sections 380 IPC, registered at P.S. Sunlight Colony, Delhi and consequential proceedings arising therefrom are hereby quashed subject to deposit of cost by the Petitioner herein.

11. 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*.

RATIBHA RANI, J.

MAY 19, 2016
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