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

+ W.P.(CRL) 910/2016

GAUTAM PATEL

..... Petitioner

Through: Mr.Sameer Mendiratta, Advocate
with petitioner in person

versus

STATE OF NCT OF DELHI AND ANR

..... Respondent

Through: Mr.R.S.Kundu, A.S.C. for the State
Respondent No.2 in person.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **26.05.2016**

1. The present writ petition has been filed by the Petitioner under Articles 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure for quashing of FIR No.124/2016, under Sections 420/468/471/34 IPC, registered at P.S. New Ashok Nagar, Delhi and consequential proceedings arising therefrom.

2. Brief facts, as stated by the Petitioner in the present petition, are that present FIR was got registered on the complaint of Respondent No.2/complainant. Petitioner herein approached and recommended respondent No.2 with a health insurance policy. Respondent No.2 took a mediclaim policy of Star Health & Allied Insurance Policy Co.Ltd. through petitioner. Respondent No.2/Complainant himself filled the application form and handed over the documents. Later when the complainant was hospitalized in Sir Ganga Ram Hospital for heart problem, the respondent No.2 handed over the policy to the hospital to get the

insurance claim against the treatment, but his insurance claim was rejected by the insurance company on the ground that he had not disclosed the disease. On the request of respondent No.2, the insurance company provided the soft copy of the application form and after seeing the application form, respondent No.2 was shocked that the whole application form was replaced and his signatures forged. During the course of proceedings the dispute was settled for Rs.3,00,000/- (Rupees three lacs only) in full and final settlement of all claims of complainant/Respondent No.2. Out of the total settled amount, today respondent No.2 has received balance amount of Rs.1,50,000/- (Rupees One lac fifty thousand only) by way of Demand Draft No.010475 dated 19.03.2016. Copy of Memorandum of Understanding dated 09.03.2016 arrived at between the parties is placed on record. Hence, the present petition has been filed before this Court for quashing of the FIR in question.

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 want that the said FIR and all proceedings emanating therefrom may be quashed.

4. Offences punishable under Sections 468/471 IPC are non-compoundable offences. In the decision 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.”

5. 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 Petitioner, which will only be an exercise in futile and wastage of precious time of the Court.

6. Accordingly, the petition is allowed and FIR No.124/2016, under Sections 420/468/471/34 IPC, registered at P.S. New Ashok Nagar, Delhi and consequential proceedings arising therefrom are hereby quashed.

Order Dasti.

PRATIBHA RANI, J.

MAY 26, 2016

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