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

+ W.P.(CRL) 1377/2016 and CrI.M.A.7213/2016

DHRUV GUPTA & ANR Petitioners

Through: Mr.Saurabh Seth and Ms.Sumeera
Seth, Advocates.

Petitioners in person

versus

THE STATE (NCT OF DELHI) & ANR Respondents

Through: Ms.Richa Kapoor, A.S.C. for the
State with SI Balwant Singh PS
Mundka.

Mr.Rohit Gupta for Respondent No.2
along with respondent No.2 in person.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **27.05.2016**

1. The present writ petition has been filed by the Petitioners under Article 226 of Constitution of India read with Section 482 CrPC for quashing of FIR No.611/2015, under Sections 427/451/506/34 IPC, PS, Mundka, Delhi as well as consequential proceedings emanating therefrom, on the basis of settlement arrived at between the parties.

2. Briefly stating, the present FIR has been registered on the basis of the complaint made by respondent No.2 with the allegation that the petitioners herein forcibly trespassed into the respondent No.2's property and caused the breaking of a wall in the said property.

3. It is stated in the petition that during the pendency of the FIR, the parties have arrived at an amicable settlement. The terms of the settlement were duly recorded in a Memorandum of Understanding dated 01.04.2016, copy of which is annexed to the petition as Annexure P-2.

4. Learned counsel for the petitioners submits that the parties have

arrived at an amicable settlement with the mutual discussions and now they are left with no grievance whatsoever against each other. Learned counsel for the petitioners further submits that petitioners also undertake to abide by the terms and conditions of the compromise deed dated 01.04.2016. Learned counsel for the petitioners submits that since the matter in dispute has been amicably settled between the parties, no purpose would be served in prosecuting the Petitioners further, therefore, the FIR may be quashed.

5. The complainant/respondent No.2 is present in the Court and affirms the factum of settlement arrived at between him and the petitioners vide compromise deed dated 07.02.2016. Respondent No.2 submits that he does not want the petitioners to suffer any further due to registration of this case and that he has no objection if the FIR in question is quashed qua the petitioners.

6. On behalf of State, it has been submitted that since the parties have arrived at an amicable settlement and all the issues have been resolved, appropriate orders may be passed.

7. The FIR registered against the present Petitioners is for committing the offences punishable under Sections 427/451/506/34 IPC. Offence punishable under Section 506 IPC is a 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

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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.”

8. In view of the legal position laid down in *Gian Singh’s case* (Supra) and 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. Accordingly, the petition is allowed and FIR No.611/2015, under Sections 427/451/506/34 IPC, PS, Mundka, Delhi and consequential proceedings arising therefrom are hereby quashed. The Parties shall abide by the terms and conditions of the settlement/compromise deed dated 07.02.2016 arrived at between them, copy of which is placed on record.

Order dasti.

PRATIBHA RANI, J.

MAY 27, 2016
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