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

+ W.P.(CRL) 1437/2016

POOJA RANI @ POOJA SHARMA & ANR Petitioners
Through: Mr.Arun Chhachhia, Advocate

versus

THE STATE & ORS Respondents
Through: Mr.R.S.Kundu, A.S.C. for the State
with Mr.Ankit Kumar Gulia, Adv.
with SI Hawa Singh PS Najafgarh

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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31.05.2016

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.382/2013, under Sections 323/308/452/34 IPC, PS, Najafgarh, Delhi as well as consequential proceedings emanating therefrom, on the basis of settlement arrived at between the parties.

2. Briefly stating, the case FIR No.382/2013 has been registered on the basis of the complaint made by respondent No.2 to 4, who are the sons and wife of landlord Mukesh Kumar. Petitioners were the tenant at House No.32, Gali No.C-5, M.S.Block, Ranaji Enclave, Delhi owned by Mukesh Kumar. Respondents 2 to 4 were the owner of a dog and on making enquiry of their missing dog some dispute and differences arose between them and consequently two separate FIRs were registered by the parties against each other.

3. On the basis of this complaint, FIR in question has been registered

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against the petitioners.

4. It is stated in the petition that during the pendency of the FIR, the parties have arrived at an amicable settlement with the intervention of the well-wishers within the family and neighbor. The copy of the compromise deed dated 18.04.2016 has been annexed to the petition as Annexure P-4.

5. Learned counsel for the petitioners submits that the parties have arrived at an amicable settlement with the intervention of well-wishers within the family and neighbor 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 18.04.2016. The undertaking given by the petitioners in this regard has also been placed on record. 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.

6. 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 18.04.2016. Respondent No.2 to 4 submit that they do not want the petitioners to suffer any further due to registration of this case and that they have no objection if the FIR in question is quashed qua the petitioners.

7. 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.

8. The FIR registered against the present Petitioners is for committing the offences punishable under Sections 323/308/452/34 IPC. Offences

punishable under Section 308/452 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 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.”

9. On behalf of the State/R-1, learned Addl. Standing Counsel further submits that some cost must be imposed on the parties for wasting the precious time of the Court and using the State machinery for recovery.

10. Petitioner is directed to deposit the cost of ₹ 20,000/- (Rupees Twenty thousand only) with the ‘Home for Leprosy and T.B. Affected Beggars’, Tahir Pur, Delhi-110093, within two weeks from today and proof thereof shall be placed on record.

11. 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.

12. Accordingly, the petition is allowed and FIR No.383/2013, under Sections 323/308/452/34 IPC, PS, Najafgarh, Delhi and consequential proceedings arising therefrom are hereby quashed subject to deposit of cost by the Petitioner herein.. The Parties shall abide by the terms and conditions of the settlement/compromise deed dated 18.04.2016 arrived at between

them, copy of which is placed on record.

13. A copy of this order be sent to 'Home for Leprosy and T.B. Affected Beggars', Tahir Pur, Delhi-110093 for information.

Order Dasti.

PRATIBHA RANI, J.

MAY 31, 2016
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