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

+ **W.P.(CRL) 1569/2016**

NADEEM

..... Petitioner

Through: Mr.Khalil A. Ansari, Mr.S.A.Khan,
Mr.Sunil Sagar & Ms.Haseena
Ansari, Advocates

versus

THE STATE (GOVT OF NCT, DELHI) & ANR Respondents

Through: Ms.Kamna Vohra, A.S.C. for the
State with SI Ashish Sharma
PS Jafrabad
Mr.J.L.Behl, Advocate for R-2 with
R-2 in person

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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01.06.2016

1. The present writ petition has been filed by the Petitioner through his father/pairokar under Article 226 of Constitution of India read with Section 482 CrPC for quashing of FIR No.197/2016, under Sections 308/452/506/34 IPC, PS Jafrabad, Delhi as well as consequential proceedings emanating therefrom on the basis of settlement arrived at between the parties.

2. The facts as mentioned in the FIR are that on 12th April, 2016 at about 5.30 p.m., Nadeem along with his two associates came at the shop of the respondent No.2/complainant and started assaulting the respondent No.2 with the iron rod as a result of which he sustained injuries on his head and right hand. It is also mentioned in the FIR that Nadeem was running a button factory where Zuhaib, son of the respondent No.2 was also working. Later

on, respondent No.2 withdrew his son from the factory of Nadeem and sent him to some other place for work due to which Nadeem got annoyed.

3. It is mentioned in the petition that subsequent to the registration of FIR, the petitioner was arrested on 14th April, 2016 and was sent to judicial custody. Since then he is languishing in judicial custody and the present writ petition has been filed by him through his father/pairokar.

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 neighbour. The copy of the Memorandum of Understanding dated 13th May, 2016 along with the affidavit of respondent No.2/complainant has been annexed to the petition as Annexure-B (Colly).

5. Learned counsel for the petitioner submits that the parties have arrived at an amicable settlement with the intervention of well-wishers within the family and neighbour and now they are left with no grievance whatsoever against each other. Learned counsel for the petitioner further submits that family of the petitioner has paid ₹ 5 lakhs to the respondent No.2/complainant as compensation for the injuries caused to him in the incident.

6. Learned counsel for the petitioner submits that since the matter in dispute has been amicably settled between the parties, no purpose would be served in prosecuting the Petitioner further, therefore, the FIR may be quashed.

7. The complainant/respondent No.2 is present in the Court and affirms the factum of settlement arrived at between him. He further submits that he has also received ₹ 5 lakhs from the petitioner as compensation and he does

not want the petitioner to suffer any further due to registration of this case. It is further submitted by respondent No.2/complainant that he has no objection if the FIR in question is quashed qua the petitioner.

8. 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.

9. The FIR registered against the present Petitioners is for committing the offences punishable under Sections 308/452/506/34 IPC. Offences punishable under Section 308/452/506 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.”

10. Accordingly, the petition is allowed and FIR No.197/2016, under Sections 308/452/506/34 IPC, PS Jafrabad, Delhi and consequential proceedings arising therefrom are hereby quashed.

11. The petitioner be released forthwith if not wanted in any other case.

12. A copy of this order be sent to the concerned Jail Superintendent for information and necessary compliance.

Order Dasti.

PRATIBHA RANI, J.

JUNE 01, 2016/‘pg’