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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 1616/2016**
MANISH SHARMA Petitioner

Through: Mr. K.K. Sharma, Sr. Adv. with Mr.
Rajiv Bakshi, Mr. Sunil Dutt and Mr.
Ayush, Advs.

versus

STATE (GOVT OF NCT OF DELHI) & ANR Respondents
Through: Ms. Richa Kapoor, ASC for State.

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK

ORDER
% **13.07.2016**

Petitioner and respondent no. 2 are real brothers. They are living in the same house. A perusal of FIR indicates that a quarrel ensued between the brothers over their share in the immovable property. During the quarrel petitioner got enraged and brought a knife from the kitchen and stabbed the respondent no.2 on his abdomen. Injury has been opined as simple. Respondent no.2 was discharged from the hospital on the very next day.

Now, both the brothers, that is, petitioner and respondent no.2 have settled their disputes amicably due to the intervention of the family on the terms and conditions as stipulated in the Memorandum of Settlement dated 13th May, 2016. Petitioner and respondent no.2 seek quashing of the FIR in view of the settlement.

Respondent no.2 is present in Court and has been identified by ASI Jaiveer Singh, P.S. Mansarovar. He submits that in view of the compromise he is not willing to pursue the matter any further and FIR be quashed.

Learned Additional Standing Counsel submits that offence is against the society, therefore, FIR should not be quashed. She has placed reliance on Narinder Singh and Ors. vs. State of Punjab and Anr. MANU/SC/0235/2014.

I have perused the judgment. In para 31 (vi), the Supreme Court has observed that offence under Section 307 Indian Penal Code would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 Indian Penal Code in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 Indian Penal Code is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 Indian Penal Code. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the

vital/delicate parts of the body, nature of weapons used etc.

In the present case, a quarrel ensued between the brothers on a trivial matter which led to scuffle and in a fit of rage petitioner appears to have stabbed the respondent no.2 by a kitchen knife resulting in simple injuries to respondent no.2. Assault was not premeditated. Keeping in mind all these factors, I am of the view that present FIR can be quashed. Accordingly, FIR 159/2015 under Section 307 IPC registered at Police Station Mansarovar Park and the consequent proceedings emanating therefrom are quashed, subject to however costs of ₹50,000/- (Rupees Fifty Thousand Only), to be deposited with the Prime Minister's Relief Fund within four weeks.

Writ petition is disposed of in the above terms.

A.K. PATHAK, J.

JULY 13, 2016

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