

\$~28

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

+ **W.P.(CRL) 1868/2016**

GABDU LAL MEENA Petitioner
Through: **Mr.Ram Niwas Buri, Advocate**

versus

STATE, GNCT OF DELHI AND ANR Respondent
Through: **Mr.Sanjay Lao, A.S.C. for the State**
with HC Braham Pal, PS IGI Airport.

CORAM:
HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **03.06.2016**

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. 1/2014, under Section 326 IPC, PS IGI Airport, New Delhi and consequential proceedings arising therefrom.

2. Brief facts, as mentioned in the petition are that the FIR came into existence on the complaint of Respondent No.2 who worked as a Security Guard at Dhaula Kuan, Airport Express Metro Station. The petitioner was on night duty on the intervening night of 06.01.2014 and 07.01.2014 at Dhaula Kuan, Airport Express Metro Station, he was to be relieved from duty at 6:00 AM on 07.01.2014 by the respondent No.1/complainant. The complainant arrived one hour late on duty i.e. 7:00 AM instead of 6:00 AM. They had an argument which was followed by quarrel between the

petitioner and the respondent No.2/complainant. In quarrel the petitioner got minor injuries on his eyes and body and in fit rage of anger he bite the right side ear of the respondent No.2/complainant and the separate bitten up part was thrown on the ground which was picked up by the complainant. Upon hearing the noise, PCR van arrived and both of them were taken first to the Army Hospital, Delhi Cantt and then were referred to the Safdarjung Hospital, New Delhi and were got medically examined. On the basis of the statement of the respondent No.2/complainant the present FIR came into existence.

3. It has been stated that both the parties have arrived at an amicable settlement out of their own sweet will, without any undue pressure and coercion from any corner. The complainant does not wish to pursue the criminal case against the Petitioner any further and pray that the said FIR and all proceedings emanating therefrom may be quashed. An affidavit of the respondent No.2/complainant to effect is annexed along with the petition as Annexure P-3.

4. The complainant is present in Court today and submits that he has settled the dispute with the petitioner without any compensation in view of poor economic condition of the petitioner and that they are colleagues, FIR against the petitioner may be quashed.

5. Offences punishable under Sections 326 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-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.”

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

7. Accordingly, the petition is allowed and FIR No. 1/2014 under Sections 326 IPC, registered at P.S. IGI Airport, New Delhi and consequential proceedings arising therefrom are hereby quashed.

Order *dasti*.

PRATIBHA RANI, J.

JUNE 03, 2016

'hkaur'