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

+ W.P.(CRL) 1077/2015

RAHUL & ANR

..... Petitioners

Through: Mr. M.T. Malik, Advocate with
petitioners in person.

versus

STATE (GOVERNMENT NCT OF DELHI) & ANR..... Respondents

Through: Ms.Nandita Rao, A.S.C. for the State
with Ms. Srilina Roy, Advocate and
SI Vikram Singh & SI Subhash, PS
Sangam Vihar.
Respondent No.2/complainant in
person.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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28.01.2016

1. This petition has been filed by the petitioner under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure praying for quashing of FIR No.208/2015, under Sections 392/411/34 IPC registered at P.S. Sangam Vihar, Delhi and consequential proceedings arising therefrom, on the basis of settlement arrived at between the parties.

2. Briefly stating, the FIR in question has been registered on the basis of statement made by the complainant/respondent No.2 to the effect that on 08.04.2015 at about 10.00 am he was going to his house on motorcycle. When he reached in front of National Hospital, Ratiya Marg and taking turn

towards the *gali*, a car bearing No.UP-16-T-6394 was ahead of his motorcycle which was being driven by one of the petitioner and that time an altercation took place between him and the petitioners. Matter was reported to the police and case FIR No.208/2015, under Sections 392/411/34 IPC, P.S. Sangam Vihar, Delhi has been registered against the petitioners.

3. Petitioners and respondent No.2/complainant are present in person.
4. Learned counsel for the petitioners submits that the matter has been amicably settlement between the parties with the intervention of the respective families. Learned counsel for the petitioners further submits that petitioners/accused persons have already remained in the custody in this case for about two months. Learned counsel for the petitioners further submits that since the dispute has been amicably resolved by the parties and complainant is not left with any grievance whatsoever against the petitioners and also does not want to continue with the criminal proceedings against the petitioners, the FIR in question as well as the consequential proceedings arising therefrom may be quashed.
5. Respondent No.2/complainant submits that he has amicably resolved the dispute with the petitioners and does not want to continue with the criminal proceedings. Respondent No.2 further submits that he has no objection if the FIR and all proceedings emanating therefrom is quashed qua the petitioners.
6. Learned ASC for the State/R-1 submits that since the parties have resolved the dispute amicably and petitioners/accused have also remained in custody for about two months for committing the offences complained of, appropriate order may be passed by this Court.
7. The FIR registered against the present Petitioners is for committing

the offences punishable under Sections 392/411/34 IPC. Offence punishable under Section 392 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 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.208/2015 under Sections 392/411/34 IPC registered at P.S. Sangam Vihar, Delhi and all the proceedings arising therefrom are hereby quashed.

10. Dasti.

PRATIBHA RANI, J.

JANUARY 28, 2016/ 'aky'