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

+ **W.P.(CRL) 2767/2015**

KAILASH CHAND YADAV

..... Petitioner

Through: **Mr.Deepak Tyagi & Mr.Sunil Kumar,**
Advocates with petitioner in person

versus

STATE (NCT OF DELHI) & ORS

..... Respondents

Through: **Mr.Ashish Aggarwal, A.S.C. for the**
State with Mr.Piyush Singhal, Adv.
with SI Prateek Saxena PS Anand
Vihar
Mr.Himal Akhtar & Molvi Aijaz
Hussain, Advocates for the R-2 along
with R-2

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

22.02.2016

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1. The present writ petition has been filed by the Petitioner under Articles 226 of the Constitution of India for quashing of FIR No. 811/2014, under Sections 420/467/468/471 IPC, registered at P.S. Anand Vihar, Delhi and consequential proceedings arising therefrom.

2. Brief facts, as mentioned in the petition are that the above FIR was registered on the complaint of Respondent No.1 & 2 as they booked a residential plot in their joint name with the petitioner and paid Rs.19,50,000/-.

3. After registration of the FIR in question, the parties reached an

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amicable settlement. The copy of settlement dated 26.05.2015 is filed along with this petition as Annexure-2.

4. The FIR registered against the present Petitioner is for committing the offences punishable under Sections 420/467/468/471 IPC registered at P.S. Anand Vihar, Delhi. Offences punishable under Section 467/468/471 IPC are non-compoundable offence. In the decision 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.”

5. Respondent No.1/complainant is present in Court today. He submits that he has amicably settled the dispute with the Petitioners and is not interested in prosecuting the Petitioner and submits that the said FIR and all proceedings emanating therefrom may be quashed.

6. In view of the aforesaid compromise 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 Petitioner, which will only be an exercise in futile and wastage of precious time of the Court.

7. However, in the facts and circumstances of the case, it is desirable that the Petitioner and respondents must be burdened with cost. Accordingly, the Petitioner and respondents are directed to deposit the cost

of Rs 15,000/- each, being total Rs.30,000/-, with the “Army Central Welfare Fund” at Director, Accounts Section, Room No.281B, Ceremonial and Welfare Directorate, Adjutant General’s Branch, South Block, Integrated HQ of MoD (Army), New Delhi, within four weeks from today and proof thereof shall be placed on record.

8. Accordingly, the petition is allowed and FIR No. 811/2014, under Sections 420/467/468/471 IPC, registered at P.S. Anand Vihar, Delhi and consequential proceedings arising therefrom are hereby quashed subject to deposit of cost by the Petitioners herein.

9. A copy of this order be sent to the Director, Accounts Section, Room No.281B, Ceremonial and Welfare Directorate, Adjutant General’s Branch, South Block, Integrated HQ of MoD (Army), New Delhi for information.

Order *dasti*.

PRATIBHA RANI, J.

FEBRUARY 22, 2016

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