

\$~9

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 3070/2015**

HARPREET SINGH & ANR

..... Petitioners

Through: Mr.J.P. Sengh and Mr.Mohit Mathur,
Sr. Advocates with Mr.Awinash
Trivedi and Ms.Harleen Singh,
Advocates

versus

STATE & ANR

..... Respondents

Through: Mr.Ashish Aggarwal, A.S.C. for the
State with Mr.Piyush Singhal,
Advocate

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

%

28.03.2016

1. By way of this writ petition filed under Article 226 of the Constitution of India read with Section 482 of Cr.P.C., the petitioners are seeking quashing of FIR No.455/2014 under Sections 147/149/323/341/506/379/356/427 IPC registered at PS Greater Kailash, Delhi and consequential proceedings arising therefrom, on the basis of settlement arrived at between the parties.

2. Briefly stating, case FIR No.455/2014 registered at PS Greater Kailash, Delhi on the basis of complaint made by the Respondent No.3 to the effect that a dispute arose over parking space, which led to an argument and lodging of an FIR against the petitioners.

3. It is mentioned in the petition that cross FIR No.456/2014 under Sections 147/149/323/341/427/451 IPC was registered at PS Greater Kailash, Delhi by petitioners herein in respect of the same incident.

4. It is further mentioned in the petition that parties have arrived at an

amicable settlement out of their own free will. The copy of settlement cum compromise deed has been annexed with the petition as Annexure-B.

5. Petitioners as well as respondents No.2 & 3 are present in person with their respective counsel.

6. Respondent Nos.2 & 3 submits that they have entered into amicable settlement with the petitioners out of their own sweet will and without any fear, coercion or undue influence from any corner. Respondent Nos.2 & 3 submit that they have no objection if the FIR in question is quashed qua the petitioners. Learned counsel for the petitioners submits that the parties have resolved the dispute amicably.

7. Learned counsel for the petitioners submits that after the matter in dispute has been amicably settled between the parties, no purpose would be served in prosecuting the petitioners, therefore the FIR in question and criminal proceedings emanating therefrom may be quashed.

8. Learned ASC for the State/R-1 submits that since the parties have amicably arrived at an amicable settlement, appropriate orders may be passed in view of the observations made by the Apex Court in ***Gian Singh v State of Punjab & Anr. 2012 (9) SCALE 257.***

9. The FIR registered in this case is for committing the offences punishable under Sections 147/149/323/341/427/451 IPC. Offences punishable under Section 147, 149 & 356 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.”

10. On behalf of the State/R-1, learned ASC further submits that some cost must be imposed on the parties for wasting the precious time of the Court and using the State machinery.

11. 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.

12. Accordingly, the petition is allowed and FIR No.455/2014 under Sections 147/149/323/341/506/379/356/427 IPC registered at PS Greater Kailash, Delhi and consequential proceedings arising therefrom are hereby quashed subject to deposit of cost by the Petitioner herein.

13. Petitioners are directed to deposit the cost of ₹ 50,000/- (Rupees Fifty thousand only) 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 two weeks from today and proof thereof shall be placed on record.

14. 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.

MARCH 28, 2016

‘hkaur/da’

W.P.(CRL) 3070/2015

PRATIBHA RANI, J.

page 4 of 4