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

+ **W.P.(CRL) 140/2016**

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..... Petitioner

Through: Mr.Nimish Chib, Advocate with
petitioner in person.

versus

THE STATE (GOVT OF NCT OF DELHI & ORS) Respondents

Through: Ms.Megha Bahl, Advocate for
Mr.Avi Singh, ASC for the State/R-1
and R-2 with SI Rajinder Singh, PS
Chandni Mahal.
Mr.Wajeeh Shafiq, Advocate with
R-3 and R-4 in person.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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18.01.2016

Crl.M.A. No.835/2016

1. Exemption allowed, subject to all just exceptions.
2. Application stands disposed of.

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1. The present writ petition has been filed by the petitioner under Articles 226/227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure for quashing of FIR No.328/2015, under Sections 323/341/506/34 IPC, registered at P.S. Chandni Mahal, Delhi and consequential proceedings arising therefrom.

2. Briefly stating, the FIR in question has been registered on the basis of

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statement made by the petitioner/complainant in respect of quarrel/incident that took place between the parties on 14.12.2015 at about 6.15 pm due to professional enmity as both parties used to run meat shops in the same area.

3. It is mentioned in the petition that in respect of the same incident, cross FIR has also been registered i.e. FIR 329/2015 under Sections 324/34 IPC, PS Chandni Mahal wherein the present petitioner and his associates are accused persons.

4. It is further mentioned in the petition that an amicable settlement has arrived at between the parties with the intervention of relatives and respectable persons of the locality.

5. Learned counsel for the petitioner/complainant submits that parties have arrived at an amicable settlement out of their own sweet will, without any pressure and force from any corner and petitioner/complainant does not wish to pursue the criminal case against the petitioners any further, hence the FIR in question may be quashed qua the respondents No.3 and 4.

6. Complainant/petitioner is present in person and submits that he has pardoned the respondents No.3 and 4 and has no objection if the FIR in question is quashed qua the respondents No.3 and 4.

7. The FIR in this case has been registered for committing the offences punishable under Sections 323/341/506/34 IPC. Offence punishable under Section 506 (Part-II) IPC is a non-compoundable offence. In the decision reported as ***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.”

8. Learned counsel for the petitioner/complainant submits that since the matter in dispute has been amicably settled between the parties as all the parties want to carry on their business peacefully and maintain social harmony. Thus no purpose would be served in prosecuting the accused persons/respondents No.3 and 4 any more, therefore, the FIR may be quashed.

9. On behalf of the State, it has been submitted that currently the trend emerging is to initiate criminal proceedings to pressurize the other party to settle the dispute in order to avoid arrest and prosecution, hence some cost must be imposed on the parties for wasting the precious time of the Court and using the State machinery.

10. On behalf of the accused persons/respondents No.3 and 4, it is submitted that they are ready to contribute the amount, considered reasonable by the Court, for the purpose of charity and benefit of that strata of society needing such help.

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 accused persons/respondents no.3 and 4, 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.328/2015, under Sections 323/341/506/34 IPC, registered at P.S. Chandni Mahal, Delhi and

all the proceedings arising therefrom are hereby quashed.

13. The respondents No.3 and 4 are directed to deposit a sum of ₹20,000/- each (total cost of ₹40,000/-) 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 seven days from today and proof thereof shall be filed in the Registry within one week thereafter.

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.

As prayed, copy of the order be given dasti to learned counsel for the parties under the signature of Court Master.

PRATIBHA RANI, J.

JANUARY 18, 2016

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