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

+ CRL.M.C. 1378/2017

SHIMLESH AGRAWAL & ANR Petitioner
Through Petitioner in person with
Mr. Manish Gupta, Adv.

versus

STATE & ANR Respondents
Through Mr. Amit Ahlawat, Addl. PP for State
with SI Neeraj.
Respondent no. 2 in person.

CORAM:

HON'BLE MR. JUSTICE A.K. CHAWLA

ORDER

% **16.05.2017**

By the instant petition filed under Section 482 Cr.P.C., the petitioner seeks quashing of FIR No. 5/2003 PS Rohini, inasmuch as, parties have arrived at a compromise/settlement. Off-shoot of the FIR is the dispute amongst the landlord and the tenant relationship amongst the parties. As per the allegations, the petitioner forcibly entered the tenancy premises and removed the articles of the respondent no.2 lying therein. In relation to FIR, which was originally registered for the offences under Sections 448/380/34 IPC, the offence under Section 448 IPC has been compounded by the parties on a compromise/settlement arrived at on 16.11.2016. Order

passed to that effect by the Ld. CMM (North), is as follows :

“16.11.2016

Present: Ld. APP for State.

Both accused persons namely Bhagwan Dass and Simlesh with counsel.

Ms. Uma Jindal, complainant in person.

Ms. Uma Jindal submits that she has entered into a settlement with the accused persons. She states that she wishes to compound the offence under Section 448 of IPC. Her statement is recorded separately. In view of her statement and the settlement arrived at, the offence under Section 448 of IPC alleged to have been committed by the accused persons is compounded.

The case shall proceed further for the offence under Section 380 of IPC.”

The offence under Section 380 IPC could not be compounded as it was non-compoundable. Though, the charge to that effect is framed, prosecution evidence is yet to be concluded. Equally, it is pointed out that though the statement of the complainant-respondent no.2 has already been recorded, one cannot say as to whether the prosecution would certainly succeed in proving its case. Be that as it may, the fact remains that the dispute amongst the parties is of private nature arising out of the landlord-tenant relationship and both the parties reside in the same locality. The statement/compromise arrived at, would certainly bring peace and harmony, not only amongst the parties, but, in the locality as well. In Criminal Appeal No. 686/2014

titled **Narinder Singh & Ors. vs. State of Punjab & Anr.**, decided on 27th March, 2014, Hon'ble Supreme Court set down the principles for exercise of power under Section 482 Cr.P.C., in the following words :

“31. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

(I) Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

(II) When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

- (i) ends of justice, or**
- (ii) to prevent abuse of the process of any Court.**

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

(III) Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by Public Servants while working in that capacity are not to be quashed merely on the basis of

compromise between the victim and the offender.

(IV) On the other, those criminal cases having overwhelmingly and pre-dominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

(V) While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

.....
.....”

Keeping in view the ratio of the judgment (supra) and totality of the facts and circumstances, I am of the considered view that ends of justice would be met, if, the subject FIR no. 5/2003, PS Rohini is quashed alongwith the consequential proceedings emanating therefrom. It is Ordered accordingly. Petition stands disposed off.

A.K. CHAWLA, J

MAY 16, 2017/rc