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

+ CRL.M.C. 1136/2017

RAKESH @ RAJU PANDIT & ANR.

..... Petitioners

Through: Ms.Radhika Arora, Advocate with
petitioners in person

versus

STATE & ORS.

..... Respondents

Through: Mr.Kewal Singh Ahuja, APP for the
State with SI Rajendra Singh
PS Malviya Nagar
Mr.R.A.Worso Zimik, Advocate for
R-2 to R-5 with R-2 to R-5 in person

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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17.08.2017

1. By way of this petition filed under Section 482 Cr.P.C., petitioners are seeking quashing of case FIR No.618/2014 under Sections 323/341/354/452/506/34 IPC and Sections 3(V), 3(X), 3(XI) of SC/ST Act and consequential proceedings arising therefrom.

2. Respondent Nos.2 to 5 have been served and counsel as above appeared on their behalf.

3. Briefly stating, the facts as mentioned in the petition are that respondent No.2 made a complaint to the police wherein she alleged that the petitioner No.1 was the landlord of her shop and he along with his son i.e. petitioner No.2 wanted her to vacate the shop. It is alleged that both the petitioners on 2.6.2014 entered in their shop and used abusive and

derogatory language against the respondent No.2 and 3 and also caused beatings to their customers i.e. respondent Nos. 4 and 5 herein.

4. It is mentioned in the petition that during the pendency of the above FIR, the parties arrived at an amicable settlement vide MOU dated 11th November, 2016, which has been annexed with the petition as Annexure-C. As per the MOU dated 11th November, 2016, the petitioners agreed to pay ₹50,000/- to the respondent Nos.2 to 5 towards the settlement amount and ₹25,000/- has already been paid at the time of signing of the MOU.

5. Today all the parties are present in person with their respective counsel. Learned counsel for the Petitioners has paid the balance amount of ₹25,000/- to the respondent Nos.2 to 5 today in Court. Learned counsel for the Petitioners submits that since the parties have resolved the dispute and have no grievance whatsoever left against each other, the FIR may be quashed.

6. Respondents No.2/Complainant is present in person and submit that she does not wish to pursue her complaint any further and she has no objection if the FIR in question is quashed.

7. Learned counsel for the petitioner submits that despite the case being registered under Section 3(V), 3(X), 3(XI) of SC 7 ST Act, quashing can be done as has been done by the coordinate bench of this Court in the decision reported as under:-

(i) *Basant Kumar Mishra & Anr. vs. The State & Anr.* in CrI.M.C.No.3779/2014 decided on 25th August, 2014

(ii) *Rajender Kumar Sangwan & Anr. vs. State of NCT of Delhi & Anr.* in CrI.M.C. No.1375/2015 & CrI.M.A. Nos.5063/2015 decided on 10th April, 2015.

(iii) *Ankita Saini vs. The State (NCT of Delhi) & Ors.* in CrI.M.C. No.3871/2015 decided on 6th November, 2015.

(iv) *Om Prakash Sharma & Ors. vs. State & Anr.* in CrI.M.C.3649/2015 decided on 18th December, 2015.

(v) *Jeetwani & Ors. vs. State of Delhi & Ors.* in CrI.M.C.No.903/2013, decided on 16th February 2016.

8. On behalf of the State, learned APP submits that currently the trend emerging is to initiate criminal proceedings to pressurize the other party to make the payment/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.

9. On behalf of the petitioners, 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.

10. Offences punishable under Sections 354/452/506/34 IPC and Sections 3(V), 3(X), 3(XI) of SC/ST Act 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.”

11. In view of the legal position laid down in *Gian Singh's case* (Supra) and amicable settlement being 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 futility and wastage of precious time of the Court.

12. Accordingly, the petition is allowed and FIR No.618/2014 under Sections 323/341/354/452/506/34 IPC and Sections 3(V), 3(X), 3(XI) of SC/ST Act as well consequential proceedings arising therefrom are hereby quashed.

13. However, both the Petitioners are directed to deposit the cost of ₹25,000/- each 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 filed by the Petitioners in the Registry.

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.

PRATIBHA RANI, J.

AUGUST 17, 2017

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