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

+ CRL.M.C. 1471/2017

PRADEEP HANS & ORS

..... Petitioners

Through: Mr.Abhishek Gupta, Advocate

versus

STATE (GOVT OF NCT OF DELHI) & ANR

..... Respondents

Through: Ms.Kusum Dhalla, APP for the State
with SI Anil Sharma, PS K.N.Katju
Marg
Mr.Jaiveer Chaudhury, Advocate for
the R-2 with R-2 in person.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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22.08.2017

1. This petition has been filed by the petitioners under Section 482 Cr.P.C. with the following prayer:

“A. Quash the F.I.R. No.1059/2015, U/s 323/341/354/506/509/34 IPC registered at P.S.K.N. Katju Marg Delhi and proceedings emanating therefrom pending in the Court of Ms.Kadambari Awasthi, Ld. M.M., Rohini Courts, New Delhi, in the interest of justice; and/or

B. Pass any other order which this Hon'ble Court may deem fit, just and proper in favour of the petitioner, in the interest of justice.”

2. Respondent No.2 is present along with her counsel and informs that the parties have entered in to a compromise deed dated 1st January, 2017 as per which they have undertook to abide by the following terms and conditions:

1. *That both parties have mutually settled their disputes amicably, and executed this MOU to quash the FIR lodged by both the parties and also undertake to appear before any Court of law to give statement if required.*

Xxxxxxxxxxxx

6. *That the terms and conditions of the present Memorandum of Understanding are binding upon both the parties and if violated any of the conditions of the present MOU then the whole MOU will be treated as null and void and both the parties will be at liberty to revive the proceedings before the appropriate Court of law.*

Xxxxxxxxxxxxxx”

3. Learned counsel for the respondent No.2 submits that as per the Compromise Deed dated 1st January, 2017 which has been placed on record, both the parties have amicably settled their disputes and agreed to withdraw the cases filed by them, but the petitioners have not withdrawn the case pending against the respondent No.2 before the Rohini Courts, hence, she is not willing to give consent for quashing of this criminal proceeding.

3. Learned counsel for the petitioners seek time to obtain the necessary instructions in this behalf.

4. The matter was passed over.

PRATIBHA RANI, J.

AUGUST 22, 2017

‘hkaur’

12:00 Noon

Present: As above

1. Learned counsel for the petitioners submit that he has sought telephonic instructions and the petitioners Pradeep shall appear in the post-

lunch session to furnish the undertaking on behalf of the petitioners to the effect that quashing of FIR No.1059/2015, under Sections 323/354/506/509/34 IPC, registered at PS K.N.Katju Marg may be done, subject to condition that the petitioners shall withdraw the FIR No.1048/15 under Section 323/341/506 IPC registered at PS K.N.Katju Marg filed against the respondent No.2, to which the complainant has no objection.

2. The matter was passed over to be taken up 2.15 pm.

PRATIBHA RANI, J.

AUGUST 22, 2017/ 'hkaur'

2:15 PM

Present: As above along with Petitioners in person.

1. The petition has been filed by the petitioners under Section 482 Cr.P.C. seeking quashing of FIR No.1059/2015, under Section 323/341/354/506/509/34 IPC at PS K.N.Katju Marg, Delhi.

2. The FIR No.1059/2015, under Section 323/341/354/506/509/34 IPC has been registered at PS K.N.Katju Marg, Delhi on the basis of the complaint made by the respondent No.2 complaining that on 4th October, 2015 while she was returning after morning walk at about 8:00 AM, the petitioners Pradeep Hans, Sunil Kumar Garg and Pawan Mittal, who are residents of same society, stopped her on her way back to home. They used abusive language and also caught her hair and threatened her because respondent No.2/complaint and her husband have helped Harsha Choudhary to lodge an FIR No.744/2014, PS K.N.Katju Marg against the petitioners. It is alleged that the petitioners have lodged a false case against her and petitioners have threatened her that till Harsha Choudhary withdraws her case, they will lodge false case against her and insult her.

3. Learned counsel for the petitioners submits that petitioners have lodged a FIR No.1048/2015 under Section 323/341/506 IPC at P.S. K.N.Katju Marg, Delhi against the respondent No.2 and the FIR in question has been lodged by the respondent No. 2 as a counter blast of the FIR lodged by them against the respondent No.2.

4. Learned counsel for the petitioners further submit that with the intervention of some common friends and respected residents of the Society the parties have amicably settled their dispute and have entered into a compromise deed which is annexed with this petition as Annexure-C.

5. Though the petitioners have been charged with the offences, some of them are non-compoundable, but 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 laid down the following guidelines:-

“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.”

6. Learned counsel for the petitioners submit that petitioners have compromised all the matters with the respondent No.2 and undertake to compound/withdraw the FIR No.1048/2015 under Sections 323/341/506 IPC, PS K.N.Katju Marg, Delhi registered against the respondent No.2 by

the petitioners. Since the matter in dispute has been amicably settled between the parties, no purpose would be served in prosecuting the petitioners any more, therefore, the FIR No.1059/2015, under Section 323/341/354/506/509/34 IPC at PS K.N.Katju Marg, Delhi may be quashed.

7. Respondent No.2/complainant is present in Court today and affirms that she has amicably settled the dispute with the petitioners. She is not interested in prosecuting the petitioners any further and the FIR in question and all proceedings emanating therefrom may be quashed.

8. 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.

9. Accordingly, subject to compliance of undertaking filed by the petitioners today in the Court and in view of the settlement arrived at between the parties, the FIR No.1059/2015, under Section 323/341/354/506/509/34 IPC registered at PS K.N.Katju Marg, New Delhi and consequential proceedings arising therefrom are hereby quashed.

10. The petition is allowed.

Dasti.

PRATIBHA RANI, J.

AUGUST 22, 2017

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