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

+ CRL.M.C. 1761/2017

SURENDER JEET SINGH & ANR Petitioners
Through: Mr.Satish K.Sansi, Advocate

versus

STATE NCT OF DELHI & ANR Respondents
Through: Mr.Kewal Singh Ahuja, APP for the
State with ASI Ajesh Kumar, PS
Gulabi Bagh

AND

+ CRL.M.C. 1814/2017

SATISH KUMAR Petitioner
Through: Mr.Satish K.Sansi, Advocate

versus

STATE NCT OF DELHI Respondent
Through: Ms.Kusum Dhalla, APP for the State
with ASI Ajesh Kumar, PS Gulabi
Bagh

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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27.07.2017

1. The above two petitions have been filed by the petitioners under
Section 482 Cr.P.C. read with Article 227 of the Constitution of India

CRL.M.C. 1761/2017 & CRL.M.C. 1814/2017

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praying for quashing of the two FIRs i.e. FIR No.78/2015 under Sections 323/341/324/354/452/34 IPC and FIR No.77/2015 under Sections 323/341/354/452/34 IPC, both registered at PS Gulabi Bagh, Delhi and the proceedings emanating therefrom on the basis of settlement through settlement deed, copy of which has been placed on record and is common to both the CrI.MC1761/2017 & CrI.M.C.1814/2017. Along with the settlement deed an undertaking by way of affidavit has also been filed by Smt.Suman Malik who is complainant in case FIR No.148/2015, to the effect that in view of the settlement between the parties which is pertaining to all the three criminal cases pending between the parties i.e. CrI.M.C.1761/2017, CrI.M.C.1814/2017 and CrI.M.C. No.1812/2017 she will also appear before the Bench on the date of hearing of CrI.M.C. No.1812/2017 to pray for quashing of proceedings in case FIR No.148/2015, PS Gulabi Bagh.

2. Case FIR No.77/2015, PS Gulabi Bagh was registered on the basis of the complaint made by Suman Malik (respondent No.2 in CrI.M.C.1814/2017) under Sections 323/341/354/452/34 IPC.

3. Case FIR No.78/2015, PS Gulabi Bagh was registered on the basis of the complaint made by Asha (respondent No.2 in CrI.M.C.1761/2017) under sections 323/341/324/354/452/34 IPC.

4. In case FIR No.78/2015 during investigation the petitioner Sunny Malik applied for anticipatory bail on the ground that at the time of alleged incident Sunny Malik was preparing for judicial services and was taking coaching at Rahul Institute at Mukherjee Nagar, which is at a distance of 7-8 kilometers away from the place of occurrence. The Investigating Officer did

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not dispute the above fact and it is stated that he has collected CCTV footage from Rahul Institute showing that the other accused Sunny Malik at the time of the alleged incident was attending the coaching classes in the institute.

5. During the pendency of above proceedings, with the intervention of the well wishers, relatives, friends and respectable persons of the society the parties have reached a settlement and the disputes have been amicably settled.

6. The parties who are present in person submit that since all the three matters have been settled between the parties vide settlement deed 27th July, 2017, which is signed by all the parties and filed today in the Court, these two petitions may be disposed of.

7. 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."

8. In view of the legal position laid down in *Gian Singh's case* (Supra) and considering that the parties involved in these two FIRs are close neighbours who have amicably settled their dispute vide settlement deed dated 27th July, 2017, 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, in terms of the settlement arrived at between the parties, FIR No.78/2015 under Sections 323/341/324/354/452/34 IPC, PS Gulabi Bagh in CrI.M.C.1761/2017 and FIR No.77/2015 under Sections 323/341/354/452/34/34 IPC, PS Gulabi Bagh, Delhi in CrI.M.C.1814/2017 and consequential proceedings emanating therefrom are hereby quashed.

Order *dasti*.

JULY 27, 2017
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PRATIBHA RANI, J.