

\$~13

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

+ W.P.(CRL) 2482/2016

MOINUDDIN SAIFI & ORS Petitioners
Through: Mohd Shariq, Advocate.

versus

THE STATE NCT OF DELHI & ANR Respondents
Through: Ms.Richa Kapoor, ASC with
Ms.Mallika Parmar, Advocate
SI Niranjan Kumar, P.S. Bhajanpura
Mr.Mahender Kumar Sharma with Mr.Avnish
Kumar, Advocate for R-3 & 4.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **17.05.2017**

The petitioners have sought quashing of the FIR No.84/2012 dated 21.3.2012 instituted for the offence under Sections 420/471/468 IPC at P.S. Bhajanpura.

The petitioners are alleged to have used, unauthorisedly, the signature and seal of the complainant, who is a chartered accountant. The offence was unearthed when the respondent No.2 received an intimation from the police asking him whether he had audited the account of the firm M/s Jyoti Embroidery, owned by petitioner No.2 or of M/s Shah Medical Store owned by the petitioner No.1, for the financial year 2009-2010. Since the respondent No.2 had not audited the accounts of aforesaid firms, sensing some foul play, he lodged the subject FIR.

It has been submitted on behalf the petitioners that there was no motive for using the signature and certificate of complainant/respondent No.2. In fact, petitioner No.3, who also owns a pharmaceutical company was asked by his brother (petitioner No.1) to obtain a certificate from any Chartered Accountant. Respondent No.3 said to have contacted one Rajeev who gave him the certificate and he is untraceable now. It is also submitted that there was no intention on the part of the petitioner to attempt or make use of the name and seal of respondent No.2. Precisely for this reason, the respondent No.2 has entered into a settlement with petitioners and is not, now, willing to prosecute them any further.

The signature and certificate of the respondent No.2 was used for obtaining loan from bank. Petitioners have also paid the dues of the bank and no amount is now left to be paid. The learned counsel appearing for respondents 3 & 4 have affirmed such statement of the petitioner.

Taking into account the aforesaid facts and the settlement arrived at between the petitioners and respondent No.2, this Court is persuaded to quash the subject FIR

In ***Gian Singh vs. State of Punjab & Another***, (2012) 10 SCC 303, the Supreme Court has held that cases which are not compoundable under Section 320 of the Cr.P.C. could also be quashed, when continuation of any criminal proceeding would be an exercise in futility and where justice demands that the dispute between the parties should be put to an end and peace is restored. But ending of such criminal proceedings could only be ordered for securing the ends of justice.

The Supreme Court has further observed in *Gian Singh vs. State of Punjab & Another* (Supra):

“58..... No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.”

[Refer to B.S. Joshi, (2003) 4 SCC 675; Nikhil Merchant, (2008) 9 SCC 677 and Manoj Sharma, (2008) 16 SCC 1.]

For the reasons afore recorded, the FIR No.84/2012 dated 21.3.2012

instituted for the offence under Sections 420/471/468 IPC at P.S. Bhajanpura, and all other proceedings emanating from it, are quashed.

The petition is disposed of in the above terms.

ASHUTOSH KUMAR, J

MAY 17, 2017
Bisht