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

+ **CRL.M.C. 2482/2017**

DEEPAK KUMAR

..... Petitioner

Through: Mr.Devki Nandan, Advocate with
petitioner in person

versus

THE STATE NCT OF DELHI & ORS

..... Respondents

Through: Ms.Meenakshi Dahiya, APP for the
State with SI Suraj Pal, PS Keshav
Puram
Mr.Rohit Sharma, Advocate for
Injured Ms.Isha Goel and the
complainant with Injured and
complainant in person.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **05.07.2017**

Crl.M.A.10322/2017

1. Exemption allowed, subject to all just exceptions.
2. The application is disposed of.

Crl.M.A. 10323/2017

1. For the reasons stated in the application, delay of 2 days in re-filing the petition is condoned.
2. The application is disposed of.

CRL.M.C. 2482/2017

1. The present writ petition has been filed by the Petitioner under Section 482 of the Code of Criminal Procedure praying for quashing of FIR No.238/2015, under Sections 323/354-A/506/509 IPC, registered at P.S.Keshav Puram, Delhi and consequential proceedings arising therefrom.

2. In this case, the FIR No.238/2015 under Section 323/354-A/506/509 IPC has been registered on the issue of wrong parking of the vehicle. The contents of the FIR reads as under:

“Sub: Complaint against Deepak and his associates for assaulting, abusing and threatening me and my wife, Isha with dire consequences of life. Sir, I, am the resident of Tri Nagar and passing from C/market, Lawrence Road in my car along with my wife and daughter and at the moment, I was passing from the stall of aforesaid Deepak, one Car was parked without following traffic rules and when requested the aforesaid shopkeeper to ask the person to remove their vehicle so that I could easily move from there, he started abusing me in filthy language and he also called his associates who also abusing me and my wife by showing obscene remarks. Sir, I came out from the car to apologize them despite I was of no fault but they started threatening me with dire consequence of life and threatened me not to come in this market again and due to which my wife got afraid and came out from the car and intervened the matter but the aforesaid Deepak pushed my wife with abusing in filthy language he saying, “Beech me mat aa, tera pati to pitega, tub hi nahi bachegi” and I got scared and left with no alternative, I called police on dialing 00 number and then police visited and look me and my wife in police station. I requested to kindly initiate appropriate legal action against aforesaid person.”

3. During the pendency of the proceedings, with the intervention of the elderly members of the family, the parties have amicably and peacefully settled their dispute.

4. Though the petitioner has 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.”

5. Learned counsel for the petitioner submits that since the matter in dispute has been amicably settled between the parties, no purpose would be served in prosecuting the petitioner any more, therefore, the FIR may be quashed.

6. Respondent No.2/complainant who is an advocate is present along with his wife. He submits that mother of the petitioner/accused is in critical condition and the petitioner has also tendered apology repeatedly and in view thereof they do not want to pursue the criminal case against the petitioner any further. They further submit that in view of the poor financial condition of the petitioner, the settlement has taken place without seeking any compensation and that they have no objection if the FIR in question and all proceedings emanating therefrom are quashed.

7. In view of the 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 petitioner, which will only be an exercise in futile and wastage of precious time of the Court.

8. Accordingly, in terms of the settlement arrived at between the parties, FIR No.238/2015 under Section 323/354-A/506/509 IPC, registered at P.S. Keshav Puram, Delhi and consequential proceedings arising therefrom are hereby quashed. The petition is allowed.

9. Copy of the order be given *dasti* to the parties.

PRATIBHA RANI, J.

JULY 05, 2017/ 'hkaur'

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