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

+ W.P (CRL) 1312/2017

MOHIT & ORS.

..... Petitioners

Through: Mr.Neeraj Dahiya, Adv.

versus

THE STATE (NCT OF DELHI) & ANR.

..... Respondents

Through: Mr. Nandita Rao, ASC for the State

Mr.Girish Kumar, Adv. for R-2.

W/ASI Saroj, P.S.Chhawla.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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03.05.2017

The petitioners seek quashing of the FIR No.451/2016 dated 15.12.2016 (P.S. Chhawla) instituted for offences under Sections 323/354/509 IPC.

The petitioners are said to have pushed and abused respondent No.2 while she was walking with her dog in the neighbourhood. It is submitted that when the dog of the respondent No.2 came close to petitioner No.2, she became furious and in a fit of temper uttered expletives at respondent No.2. It has been further alleged that petitioner No.1, who is the son of petitioner No.2 joined her mother, gave a push to respondent No.2 and also inappropriately touched her.

Learned counsel for the petitioners submits that the present FIR was lodged because of some confusion in the mind of respondent No.2. In fact the petitioners are known to respondent No.2 who is their neighbour. Regard

being had to the fact that the petitioners are the neighbours of respondent No.2 and that respondent No.2 out of misconception lodged the case, the parties decided to bury the hatchet and settle the dispute. Respondent No.2 took into account that the physical attack on her was either on account of fear or in a flash of temper but without any intention to harm her.

From the circumstances of the case, it appears that a trivial issue between the neighbours was unnecessarily blown to a bigger proportion which was highly avoidable. However, since the respondent No.2 is not, now, interested in prosecuting the petitioners, this Court is inclined to quash the first information report.

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.]

Considering the aforesaid facts, the FIR No.451/2016 dated 15.12.2016 (P.S. Chhawla) under Sections 323/354/509 of the IPC and all the emanating proceedings therefrom are quashed.

The petition is disposed of in terms of the above.

ASHUTOSH KUMAR, J

MAY 03, 2017

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