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

+ CRL.M.C. 1793/2017

SANTOSH @ ALEX AND ORS Petitioners

Through: Mr. B.K. Ray, Adv.

versus

STATE NCT OF DELH & ANR Respondents

Through: Dr. M.P. Singh, APP for the State
with SI Yashvir Kumar, P.S. Sarojini
Nagar
Mr. Onkar Singh, Adv. for R-2

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **03.05.2017**

CRL.M.A.7328/2017

Exemption allowed, subject to all just exceptions.

Application is disposed of.

CRL.M.C. 1793/2017 & CRL.M.A.7327/2017

The petitioners seek quashing of the FIR No.550/2015 dated 01.08.2015 (P.S. Sarojini Nagar) instituted for offences under Sections 509, 354, 354A, 354D and 34 of the IPC. The petitioners are said to have passed lewd comments on the respondent no.2 while she was going to some place along with her friend. The petitioners were found to be drunk at the time of the occurrence.

Learned counsel for the petitioner submits that the present FIR was lodged because of some confusion in the mind of respondent No.2. In fact,

the petitioners were known to respondent no.2 from before and only because they drove past the respondent no.2 in speed, the respondent No.2 felt that she was pushed and her body was inappropriately touched. Considering that it was an inadvertent mistake on the part of the petitioners, respondent no.2 chose to settle the disputes with the petitioner. Consequently, a settlement deed was executed. The parties have also promised that they shall not cross roads with each other and shall live as friends in future.

It appears that the FIR was lodged under a misconception and since respondent No.2 has chosen not to prosecute the petitioners any further and that no useful purpose would be served in keeping the present case pending, this Court is inclined to quash the subject FIR.

The petitioners and respondent No.2 are present in court. The petitioners are said to be working whereas respondent No.2 is persecuting her studies.

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.550/2015 dated 01.08.2015 (P.S. Sarojini Nagar) under Sections 509/354/354A/354D/34 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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