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

+ W.P.(CRL) 1347/2017

AMARJEET MATHUR Petitioner
Through: Dr.M.K.Gahlaut, Adv.

versus

STATE (NCT OF DELHI) & ANR Respondents
Through: Mr.Jamal Akhtar, Adv.

CORAM:
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

% **ORDER**
04.05.2017

CRL. M.A.7437/2017

Exemption allowed, subject to all just exceptions.

Application is disposed of.

W.P.(CRL) 1347/2017

The petitioner seeks quashing of FIR No.243/2010 dated 06.10.2010 (P.S.Begumpur) instituted for the offences under Sections 420/467/468/471 and 120B of the IPC.

A complaint was lodged on 19.04.2010 by the respondent No.2 alleging that the petitioner had trespassed into his portion of the property and had unauthorisedly started construction. There are certain other allegations in the FIR as well suggesting that the respondent No.2 was threatened on gunpoint. Simultaneously, a civil suit also was filed before the competent Court with a prayer for handing over of the possession of the

subject property to the respondent No.2.

During the course of prosecution of the civil suit, the petitioner and the respondent No.2 entered into a settlement and thereafter an application was moved under Order 23 Rule 3 of the CPC which was allowed.

The settlement deed between the petitioner and the respondent has been brought on record.

The respondent No.2 has been given possession of the plot of land which is said to have been trespassed. For the construction which was carried out, respondent No.2 has paid Rs.1,50,000/- to the petitioner.

The dispute, in all respects, has now been redressed.

Though there is allegation of forgery and of threatening on point of weapon but the offence seems to be personal in nature without having any serious impact on the even tempo of society. Considering the fact that the respondent No.2 has no grievance to be redressed and is satisfied with the terms of settlement and has also been paid by the petitioner for the expenses which were incurred by him in initiating the construction, this Court is of the opinion that no useful purpose would be served in keeping the investigation of the case pending any further. It is submitted that the petitioner has an untainted background and the respondent No.2 is a resident of Pune who does not wish to prosecute the petitioner any further.

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.243/2010 dated 06.10.2010 (P.S.Begumpur) instituted for the offences under Sections 420/467/468/471 and 120B of the IPC and all the emanating proceedings therefrom are quashed.

The petition is disposed of in terms of the above.

Dasti.

ASHUTOSH KUMAR, J

MAY 04, 2017

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