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

+ W.P.(CRL) 1465/2017

SARITA KOHLI & ANR

..... Petitioners

Through: Mr.Vijay Kajana, Advocate

versus

STATE & ORS

..... Respondents

Through: Dr.M.P.Singh, APP for the State.

Mr.Mohit Singh, Advocate for R-2

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **01.08.2017**

Crl.M.A.No.8166/2017(Exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

Crl.M.A.No.12179/2017

The present application has been filed on behalf of the petitioners 1 & 2 to add Jasudha Kohli @ Mona and Vivek Kohli as parties to the proceedings as they have also been made accused in the subject FIR which is sought to be quashed on the strength of settlement.

It has further been pointed out that one of the sisters of respondent No.2, namely, Sheela Soin has been arrayed as respondent No.3 in this writ petition as she also has been made accused at the instance of respondent No.2 who is the brother of the aforesaid petitioners viz.1 & 2 and respondent No.3.

For the reasons stated in the application, the prayer made therein is

allowed.

Ms.Jasudha @ Mona and Vivek Kohli are impleaded petitioner Nos. 3 and 4.

Amended memo of parties, which is annexed along with the application, is taken on record.

Application stands disposed of.

W.P.(CRL) 1465/2017

The petitioners seek quashing of the FIR No.1208/2015, dated 12.08.2015, P.S. Rajouri Garden instituted under Sections 448/506.

Petitioners 1 & 2 are the sisters of respondent No.2 whereas newly added petitioners 3 & 4 are the daughter and son of petitioner No.1 respectively. Respondent No.3 is another sister of respondent No.2 who also has been made an accused in the subject FIR. She has been impleaded as respondent No.3 for the reasons that she stays in the Madhya Pradesh and is not willing to execute power of attorney in favour of the petitioners 1 & 2 for seeking quashing of the subject FIR.

Petitioners 3 & 4 are not present. A prayer has been made on their behalf that they be represented through petitioner No.1. A power of attorney in that regard has been executed by petitioners 3 & 4.

Because of a family dispute which arose with respect to a particular house in Rajouri Garden, the subject FIR came to be lodged by respondent No.2. The allegation in the said FIR is that the petitioners and respondent No.3 have forcibly occupied the ground floor of the said property. However, during the pendency of the present FIR, a settlement was arrived at between the parties and the possession of the ground floor of the said property has been handed over to respondent No.2 and in return thereto the

petitioners 1 & 2 have been compensated. The petitioners 3 & 4 do not require to be paid anything in return for their share in the property. However, there is no specific statement with regard to any consideration having been paid to respondent No.3 who has not participated in the present proceedings.

Be that as it may, respondent No.2 does not wish to prosecute either the petitioners or the respondent No.3 in any manner whatsoever. In case, respondent No.3 has any rights and obligations subsisting as a family member, as against respondent No.2, it will be open for her to approach the competent authority for redressal of such grievances.

In any view of the matter, since respondent No.2 is not desirous of continuing with the present litigation against any of the accused person, this Court is of the view that no useful purpose will be served in keeping alive 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.1208/2015 dated 12.08.2015 (PS Rajouri Garden) instituted for the offences under sections 448/506 of the IPC and all the emanating proceedings therefrom are quashed.

The petition is disposed of.

ASHUTOSH KUMAR, J

AUGUST 01, 2017
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