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

+ CRL.M.C. 1920/2017

SH UTTAM VERMA & ORS Petitioners
Through Mr. R.P.S. Bhatti, Adv.

versus

THE STATE GOVT OF NCT OF DELHI & ANR Respondents
Through Dr. M.P. Singh, APP.
ASI Yaspal Singh, P.S. Karawal
Nagar
Mr. A.A. Khan, Adv. for R-2

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **22.08.2017**

The petitioners seek quashing of the FIR No.208/14 dated 17.03.2014 (P.S. Karawal Nagar) instituted for offences under Sections 451, 323, 354B and 34 of the IPC read with Section 8 of the POCSO Act.

It has been submitted on behalf of the petitioners and respondent No.2 that a settlement has been arrived at between the parties. The averments made in the FIR also do not disclose any serious offence.

The occurrence is said to have taken place on the day of *Holi* festival when the petitioner No.1 is said to have entered the house of respondent No.2 and applied colour to the mother of respondent No.2. When the father of respondent No.2 came, colour was applied on him as well. Thereafter, there was a fight between the petitioners and respondent no.2, her father and her brother. In the fight which ensued, clothes of respondent No.2 were

torn. It has been submitted on behalf of the petitioners that the petitioners and respondent no.2 along with their family stay in the same building and on the day of *Holi*, colour was applied to the family members of the respondent No.2 which was not to the liking of the other family members. Hence, the aforesaid case was lodged. However, there has been a settlement of disputes.

The petitioners and respondent No.2 are present in court who have been identified by their respective counsel.

Taking into account the nature of accusation in the FIR, relationship between the parties and the fact that the families live in the same building, this court is inclined to quash the subject FIR. While saying so, this court only takes a holistic view of the matter that any continuance of the proceedings as against the petitioners would be futile. Even the nature of the accusations in the FIR do not make out any case with respect to the offences for which the petitioners have been charged. In fact, a cross case (FIR No.449/2014) was filed against the respondent No.2 and her family members by the brother of petitioner No.1.

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 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.208/14 dated 17.03.2014

(P.S. Karawal Nagar) instituted for offences under Sections 451, 323, 354B and 34 read with Section 8 of the POCSO Act and all the emanating proceedings therefrom are quashed.

The petition is disposed of.

Dasti.

ASHUTOSH KUMAR, J

AUGUST 22, 2017

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