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

+ **W.P.(CRL) 1557/2017**

RAKHI

..... Petitioner

Through: Mr. Raap Ram Sarwal, Adv.

versus

THE STATE NCT OF DELHI & ANR

..... Respondents

Through: Ms. Kamna Vohra, ASC for the State
SI Ajay Tomar, P.S. Shakarpur

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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23.05.2017

CRL. M.A.8687/2017

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(CRL) 1557/2017

The petitioner, Rakhi, seeks quashing of the FIR No.163/2017 dated 06.04.2017 (P.S. Shakarpur) instituted for offence under Section 420 IPC. A tour package was booked by the complainant/respondent No.2 with the petitioner and she accepted 40% of the cost to be incurred as advance. Respondent No.2, on reaching the airport, found that his ticket was cancelled because the visa was defective. It is alleged that the respondent No.2 tried to communicate with the petitioner but she had switched off her mobile, was unreachable and shifted her office to another place. The FIR discloses that the tour programme was of a team consisting of 23 persons.

Learned counsel for the petitioner has stated that the entire amount, which was accepted by the petitioner, has been returned to the respondent No.2, who represents the entire team for which the tour package was obtained.

The petitioner and respondent No.2 are present in court.

Respondent No.2 affirms and asserts that the entire amount has been paid and he now does not wish to prosecute the petitioner. The investigation of this case is still pending.

The parties have been identified by their respective counsel.

Taking into account the fact that the amount which was deposited with the petitioner has been returned and the complainant does not wish to prosecute the petitioner any further, this court is persuaded to quash the subject FIR. By saying so, this court has taken into account that such difficulties do arise in conducting tour programmes and it was not deliberate that the tickets of the respondent No.2 and all the members of the team were cancelled.

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 aforesaid facts, the FIR No. 163/2017 dated 06.04.2017 (P.S. Shakarpur) and all other proceedings emanating therefrom are quashed.

The petition is disposed of in terms of the above.

ASHUTOSH KUMAR, J

MAY 23, 2017

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