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

+ W.P.(CRL) 1750/2017

HARI CHAND & ORS Petitioners
Through Ms. Meenakshi Kalra & Ms. Jyoti
Sharma, Advocates with petitioners in
person

versus

STATE GOVT OF NCT OF DELHI & ANR Respondents
Through Mr. R.S.Kundu, ASC (Crl.) with Mr.
Ankit Kumar Gulia with SI Satish
Bhati, P.S.Kalkaji
Respondent no.2 in person

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% **31.05.2017**

Crl.M.A.No. 9643-44/2017 (Exemption)

Exemption allowed, subject to just exceptions.

Applications stand disposed off.

WP(Crl.) No. 1750/2017

By the petition filed under Section 482 Cr.PC, FIR No. 378/2016 under Sections 304/506/34 IPC, P.S. Kalkaji is sought to be quashed. IO identifies the parties present before the Court.

Subject FIR is the off-shoot of a dispute in relation to shop premises on the ground floor owned by the father of the complainant-respondent no.2. As per the allegations, the petitioners had

unauthorisedly put their locks on the shop and in that context, the arguments ensued and during that course, the complainant-respondent no.2 is said to have been touched inappropriately attracting the offence under Section 354 IPC and being threatened, attracting offence under Section 506 IPC. Parties have arrived at a compromise/settlement. The complainant-respondent No.2 present for the Court states that the petitioners were known to her family also and that with the compromise/settlement arrived at, she does not wish any action being proceeded with against the petitioners. IO present for the Court states that the challan has since been filed and petitioners are the only accused persons and that the matter is yet to be taken up for consideration on charge. Assuming, the charges come to be framed, with the compromise/ settlement arrived at, it is highly improbable that the trial would bear any fruits and the entire exercise in all likelihood would be futile. In my considered view, the ends of justice require that the subject FIR be also quashed in view of the compromise/settlement arrived at inasmuch as, it shall bring peace and harmony not only amongst the parties, but, in the neighbourhood/locality as well. In Criminal Appeal No. 686/2014 titled **Narinder Singh & Ors. vs. State of Punjab & Anr.**, decided on 27th March, 2014, Hon'ble Supreme Court set down the principles for exercise of power under Section 482 Cr.P.C., in the following words :

“31. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482

of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

(I) Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

(II) When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

- (i) ends of justice, or
- (ii) to prevent abuse of the process of any Court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

(III) Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by Public Servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

(IV) On the other, those criminal cases having overwhelmingly and pre-dominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

(V) While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

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Keeping in view the ratio of the judgment (supra) and totality of the facts and circumstances, I am satisfied that ends of justice would be met, if, the subject FIR No. 378/2016, under Sections 304/506/34 IPC, PS Kalkaji alongwith the consequential proceedings emanating therefrom be quashed. It is ordered accordingly. Petition stands disposed off.

Dasti.

A. K. CHAWLA, J

MAY 31, 2017

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