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

+ **W.P.(CRL) 1877/2017**

SHRI AMARJEET SINGH & ORS

..... Petitioners

Through Mr.Mohit Ramdeo, Adv.

versus

STATE & ANR

..... Respondents

Through Mr.Rahul Mehra, Standing counsel
with Mr.Jamal Akhtar, Adv.
SI Birender Singh PS Dwarka South.
Ms.Shamisha Kuchian, Adv. for
complainant.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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18.08.2017

Crl.M.A. 10454/2017 (Exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(Crl.) 1877/2017

The petitioners have sought quashing of the FIR No.457/2016 dated 28.08.2016 (PS Dwarka South) instituted for the offences under sections 380/420/448/467/468/471/120B/506/427 IPC.

It has been submitted on behalf of the petitioners that except for petitioner no.1, petitioner nos.2 & 3 have got no concern with the property in dispute. It has further been submitted that petitioner no.1 and respondent no.2 claimed themselves to be the owners of the property bearing No.A-

47A, measuring 115 square Yards in Palam, Extension Part-I, Sector-7, Dwarka, New Delhi. The petitioner no.1 and respondent no.2 staked their claim over that property on the strength of their respective chain of documents in their favour.

A civil suit was filed by respondent no.2 seeking possession of the property and permanent injunction against the petitioners.

During the pendency of the civil suit, the matter was settled at the mediation centre, Dwarka. A settlement was drawn up on 03.06.2017 whereby it was agreed upon between the parties that the property in question would be sold to one Jasbir Solanki for Rs.90 lakhs and the aforesaid amount would be distributed amongst petitioner no.1 and respondent no.2 in the ratio of 5:4. As part of the agreement, petitioner no.1 has received an amount of Rs.40 lakhs whereas respondent no.2 has received Rs.50 lakhs. It was also agreed upon between the parties that the civil suit would be withdrawn. This Court has been informed that the civil suit has already been withdrawn. The memorandum of settlement refers to the conscious decision of the parties not to prosecute each other at any forum.

The petitioners are present in the Court who have been identified by their counsel. Respondent no.2 is aged about 80 years and has, therefore, executed a power of attorney in favour of his son who is present in Court. The son of respondent no.2 has been identified by the counsel and SI Virender.

Considering the fact that the entire disputes between the parties have been settled and the civil suit which was filed by respondent no.2 has also been withdrawn, this Court deems it appropriate that the subject FIR be quashed.

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.457/2016 dated 28.08.2016 (PS Dwarka South) instituted for the offences under sections 380/420/448/467/468/471/120B/506/427 IPC and all the emanating proceedings therefrom are quashed.

The petition is disposed of.

ASHUTOSH KUMAR, J

AUGUST 18, 2017

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