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

+ CRL.M.C. 2596/2017

ALTAF HUSSAIN & ORS

..... Petitioners

Through: Mr. Kartickay Mathur, Adv. along
with petitioner in person

versus

GOVT OF NCT OF DELHI & ORS

..... Respondents

Through: Mr. Arun Kr. Sharma, APP
Mr. Mukund Mishra, Adv. for R-2 &
R-3
ASI Om Parkash, P.S. Nangloi

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **13.07.2017**

Crl.M.A. 10818/2017

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

CRL.M.C. 2596/2017

The petitioners seek quashing of the FIR No.407/2014 dated 13.06.2014 (P.S. Nangloi) instituted for offences under Sections 308, 354B, 323 and 34 of the IPC.

At the outset, it has been submitted that after investigation, charge sheet has been submitted against the petitioners. The petitioners, who come from the same family, are the owners of the house in which respondents No.2 and 3 are tenants. Relationship between the landlord and tenant

became strained and on the day of the occurrence, the respondent No.2 was physically abused and respondent No.3 was also assaulted. From the perusal of the FIR itself, it would appear that the allegations have been levelled because of the dispute regarding tenancy and some differences having emerged during the stay of respondents No.2 and 3 in the house of petitioner No.1.

Be that as it may, during the course of investigation and sometimes thereafter, the parties realised the futility of carrying on with this litigation. The respondents have also shifted their accommodation and are no longer tenants of the petitioner. Memorandum of Settlement has also been drawn up which has been made part of the record. The parties, in terms of the Memorandum of Settlement, are desirous of settling at rest the dispute between them. The settlement deed further states that this resolve is without any undue influence, pressure or coercion.

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.]

Taking into account the aforesaid facts and also the nature of allegations levelled in the FIR, this court is of the opinion that no useful purpose would be served in continuing with the litigation, the FIR No.407/2014 dated 13.06.2014 (P.S. Nangloi) instituted under Sections 308, 354B, 323 and 34 of the IPC and all the proceedings arising thereof are quashed.

The application is allowed.

ASHUTOSH KUMAR, J

JULY 13, 2017
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