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

+ W.P.(CRL) 3545/2016 & CrI.M.A.No.19370/2016 (for stay)

SATINDER PAUL SINGH RANA & ANR Petitioners
Through: Mr.Manjit Singh Ahluwalia, Adv.

versus

STATE & ANR Respondents
Through: Mr.Sanjay Lao, ASC
S.I. Sandeep Malik, P.S. Dwarka North.
Mr.J.P.Singh, Ms.Richa Sandhya and
Mr.Gurmeet Singh, Adv. for respondent No.2

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **22.09.2017**

The petitioner seeks quashing of FIR No.233/2015 dated 21.03.2015 (P.S.Dwarka North) instituted for the offences under Sections 406/409/416/417/420/120B/467/468/471 and 34 of the IPC.

The complainant, respondent No.2 has alleged that the petitioner induced him to believe that the property which was to be purchased by him, was free of encumbrances and stands in the name of the petitioner. As a result of such inducement, Rs.21 lakhs was paid by the complainant/respondent No.2 to the petitioners. However, later it transpired that the property in question had never been allotted to the accused persons/petitioners. The petitioners were not willing to return the money. Hence the said FIR.

During the course of the investigation, an agreement was arrived at between the parties and a Memorandum of Understanding (MOU) was

brought into existence.

As per the MOU, taking into account the various facts and the delay in return of the amount paid by the complainant/respondent No.2, the petitioners agreed to pay a total amount of Rs.40 lakhs to the respondent No.2. Out of the aforesaid amount of Rs.40 lakhs, admittedly, Rs.38 lakhs have been paid. The balance amount of Rs.2 lakhs has been paid today in Court by way of a demand draft No. 041238, dated 14.7.2017, which has been accepted by the respondent No.2, who is present in person and has been identified by his counsel.

The petitioners who are present in person, have also been identified by their counsel.

Considering the fact that the entire dispute has been settled and the respondent No.2 has no grievance pending as against the petitioners, this Court is of the view that no useful purpose will be served in keeping the prosecution against the petitioners.

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, FIR No.233/2015 dated 21.03.2015

(P.S.Dwarka North) instituted for the offences under Sections 406/409/416/417/420/120B/467/468/471 and 34 of the IPC and all the emanating proceedings therefrom are quashed.

The petition is disposed of.

Dasti.

ASHUTOSH KUMAR, J

SEPTEMBER 22, 2017

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