

\$~43

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

+ W.P.(CRL) 2115/2017

YOGESH JAIN & ORS

..... Petitioners

Through: Mr. Yashvir Sethi with Mr. Neeraj
Kumar Gupta, Advs.

versus

STATE & ANR.

..... Respondents

Through: Mr. Piyush Singhal, Adv. for Mr.
Ashish Aggarwal, ASC.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

%

26.07.2017

The petitioners seek quashing of FIR No.721/2014 dated 14.08.2017 (P.S. Najafgarh) instituted for offences under Sections 420, 468, 471, 420 and 34 of the IPC.

It has been submitted on behalf of the petitioners that a suit for permanent injunction had been filed by respondent No.2 and his father with respect to property bearing No.50A, Main Bazar, Jawahar Chowk, Najafgarh, New Delhi. The case of the petitioners is that the property was originally let out to petitioner No.1 in the month of February, 1992. After the petitioner No.1 entered appearance in the aforesaid suit, the respondent No.2 and his father filed the subject FIR. The case of the petitioner No.1 was that the property had been sold to him by the father of respondent No.2.

During the pendency of the subject FIR a settlement was arrived at between the parties. The aforesaid settlement between them was taken note

of in the civil suit referred to above and it was disposed of in terms of the settlement. As part of the settlement, the petitioner received a total amount of Rs.11 lakhs and agreed to vacate the property in question. Considering the settlement, now, the respondent No.2 is not at all desirous of prosecuting the petitioner.

Learned counsel for the State has drawn the attention of the Court to the fact that in the body of the FIR, allegations have been levelled against one B.L. Sagar, Sub-Registrar, Kapashera, Delhi regarding his collusion with the petitioners. The aforesaid Sub-Registrar is not one of the petitioners in the present petition.

The petitioners are said to be distantly related to respondent No.2.

The petitioners have been identified by their counsel. Respondent No.2 has been identified by the IO, who is in attendance in Court.

Taking into account the fact that the dispute, which is personal in nature, has been settled and that respondent No.2 is not now desirous of prosecuting any one of the petitioners and Mr. B.L. Sagar against whom he had raised allegations, this Court is persuaded to quash the subject FIR.

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. 721/2014 dated 14.08.2017 (P.S. Najafgarh) instituted for offences under Sections 420, 468, 471, 420 and 34 of the IPC and all other proceedings emanating therefrom are quashed.

The petition is disposed of in terms of the above.

Dasti.

ASHUTOSH KUMAR, J

JULY 26, 2017

ns