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

+ CRL.M.C. 2781/2017

AMIT PRAKASH & ORS

..... Petitioners

Through: Mr.Amit Gupta &
Mr.N.Swaminathan, Advocates with
petitioners in person

versus

STATE & ANR

..... Respondents

Through: Ms.Kusum Dhalla, APP for the State
with SI Rajiv Kumar PS Mandawali
Mr.Rajan Sharma, Advocate for R-2
with R-2 in person

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

12.09.2017

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1. By way of this petition filed under Section 482 Cr.P.C., petitioners are seeking quashing of case FIR No.1080/2014 under Sections 323/354/506/34 IPC, PS Mandawli Fazadpur and consequential proceedings arising therefrom.

2. Briefly stating, the facts as mentioned in the FIR are that on 22nd November, 2014 during the ring ceremony function of cousin of the complainant/respondent No.2 at about 10:00 PM the petitioners namely Manish Kumar, Amit, Anivesh and Ajay Sharma entered the function venue and molested her. Anivesh, held her hand and threw her on the ground. She cried for help and with the nearby persons got her hand released from him and somebody called the PCR.

3. It is mentioned in the petition that during the pendency of the proceedings, with the intervention of elders of the society and friends, the parties arrived at an amicable settlement vide Settlement cum Compromise Deed dated 12th September, 2017.
4. Learned counsel for the petitioners submit that since the parties have resolved the dispute and have no grievance whatsoever left against each other, the FIR may be quashed.
5. Though the petitioners have been charged with the offences, some of them are non-compoundable, but in the decision in the case of ***Gian Singh v State of Punjab & Anr. 2012 (9) SCALE 257***, the three Judges Bench of the Supreme Court dealing with the issue of quashing of FIR has laid down the following guidelines:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences Under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed.

However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise

between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil favour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

6. Respondent No.2/complainant is present in Court today and affirms that she has amicably settled the dispute with the petitioners. She is not interested in prosecuting the petitioners any further and the FIR in question and all proceedings emanating therefrom may be quashed.

7. In view of the legal position as laid down in Gian Singh's case (supra) and the amicable settlement arrived at between the parties, I am of the considered view that no useful purpose would be served by continuing the

criminal proceedings against the petitioners which will only be an exercise in futile and wastage of precious time of the Court.

8. However, in the facts and circumstances of the case, it is desirable that the petitioners must be burdened with cost. Accordingly, it is directed that a cost of Rs.10,000/- (Rupees Ten Thousand) each be deposited by the petitioners with the 'Home for Leprosy and T.B. Affected Beggars', Tahir Pur, Delhi- 110 093 within two weeks. A receipt of deposit of the same be filed in the Registry.

9. The said amount so deposited shall be kept in the saving bank account and shall be utilized to meet day to day urgent needs of the inmates.

10. The petition is allowed and case FIR No.1080/2014 under Sections 323/354/506/34 IPC, PS Mandawli Fazadpur and consequential proceedings arising therefrom are hereby quashed.

11. A copy of this order be sent to the Superintendent, Home for Leprosy and T.B. Affected Beggars, Tahir Pur, Delhi-110 093 for information and compliance.

Order *dasti*.

PRATIBHA RANI, J.

SEPTEMBER 12, 2017

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