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

+ **W.P.(CRL) 2073/2017**

VIJAY KUMAR

..... Petitioner

Through: Mr. Anshul Pratap Singh & Mr.
Rahul, Advs.

versus

STATE OF NCT OF DELHI & ANR

..... Respondents

Through: Mr. Rahul Mehra, Standing counsel
with Mr. Jamal Akhtar, Adv.
ASI Barmeshwar Goswami, P.S.
Mehrauli
Mr. Sunil Fernandes, Standing
Counsel with Mr. Arnav,
Mr. Vidyarthi, Ms. Anju Thomas,
Advs. for R-2

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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24.07.2017

Crl.M.A. 11594/2017

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(CRL) 2073/2017

The petitioner seeks quashing of the FIR No.843/2016 dated 02.04.2016 (P.S.Mehrauli) instituted for the offence under Section 135 of the Indian Electricity Act, 2003.

The electric meter in the premises of the petitioner was seized by the Meter Management Group (MMG) of the respondent No.2 and the same was

put to test. The meter hologram seal was not visible. However, on being tested in the laboratory, it was found to have been tempered. Considering this to be an incidence of dishonest abstraction of energy, the subject FIR was lodged.

Learned counsel appearing for respondent No.2 however submits that during the course of the investigation of this case, there was a settlement whereby the petitioner paid all his civil liabilities under the Act which was assessed by the respondent No.2. Because of such settlement between the petitioner and respondent No.2 and the petitioner having paid the dues as demanded of him, a No Objection Certificate was issued by the respondent No.2. No Objection Certificate, however, is only in the nature of a no dues towards civil liabilities but it is stated to be without prejudice to the investigation of the subject FIR.

Be that as it may, the learned advocate appearing for respondent No.2, on instructions, submits that now, with the payment of the civil liabilities by the petitioner, the respondent No.2 is not desirous of continuing with his prosecution. As such, the respondent No.2 would have no objection to the subject FIR being quashed, this Court is inclined to quash the subject FIR.

Taking into account the aforesaid facts, namely, the assessment of the civil liability as against the petitioner through the agency of respondent No.2 and the same been paid by petitioner, this Court is inclined 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.]

In view of the aforesaid, the subject FIR namely FIR No.843/2016 dated 02.04.2016 (P.S. Mehrauli) instituted for the offence under Section 135 of the Indian Electricity Act 2003 is quashed along with all the proceedings emanating therefrom.

The petition is allowed and disposed of accordingly.

ASHUTOSH KUMAR, J

JULY 24, 2017

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