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

+ **W.P.(CRL) 2033/2017**

DEEPAK

..... Petitioner

Through: Mr.Sumit Chaudhary, Adv.

versus

THE STATE (GOVT. OF NCT OF DELHI) & ANR..... Respondents

Through: Mr.Rajesh Mahajan, ASC.

SI Amarjeet Rana, P.S.Bawana.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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20.07.2017

CrI.M.A.11380/2017

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(CRL) 2033/2017

The petitioner seek quashing of FIR No.169/2017 dated 12.04.2017 (P.S.Bawana) instituted for the offence under Section 308/34 of the IPC.

The respondent No.2 is said to have been attacked by the petitioner by a sharp object on his head. It has also been stated in the FIR that there were two other persons accompanying the petitioner. Be that as it may, it has been pointed out that injuries suffered by the respondent No.2 are simple in nature. During the course of investigation of this case, an understanding was arrived at between the petitioner and respondent No.2 whereby respondent No.2 has agreed not to oppose any application seeking quashing of the

subject FIR if it is filed in the Courts of law. Respondent No.2 is also not aware as to who all actually took part in the occurrence. The settlement between the parties is out of free will and without threat, coercion or pressure exerted upon them. The averments made in the FIR also do not reflect that there was any intention of the petitioner to inflict any serious injury on the respondent No.2.

Taking into account the aforesaid facts, this Court feels 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.]

For the aforesaid facts, the FIR No.169/2017 dated 12.04.2017 (P.S.Bawana) instituted for the offence under Section 308/34 of the IPC and all other proceedings emanating therefrom are quashed.

The petition is disposed of in terms of the above.

ASHUTOSH KUMAR, J

JULY 20, 2017

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