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

+ CRL.M.C. 2894/2017

RAJESH & ORS

..... Petitioners

Through: Ms. Suman Tanwar, Adv.

versus

STATE NCT OF DELHI & ANR

..... Respondents

Through: Dr.M.P. Singh, APP.

ASI Omprakash, HC Babulal, P.S.
Nangloi

Mr. Manish Kumar, Adv. for R-2

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **28.07.2017**

Crl.M.A.12019/2017 (Exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

CRL.M.C. 2894/2017

The petitioners seek quashing of the FIR No.381/2015 dated 13.05.2015 (P.S. Nangloi) instituted for offences under Sections 323, 354B and 34 of the IPC. It has been submitted that the FIR was lodged because of some dispute between the parties with respect to construction/demolition of pre-existing staircase in front of their houses.

Though allegations have been levelled under Section 354B of the IPC but from the narration in the FIR, it appears to be a case arising out of

dispute over a small issue.

It has been submitted on behalf of the petitioners that the wife of petitioner No.1, Smt. Surekha, has also lodged a complaint against respondent No.2 and two others namely Sanjay Kumar and Tarun, on the basis of which FIR No.383/2015 dated 14.05.2015 (P.S. Nangloi) has also been instituted under Sections 323, 354, 451, 427, 506 and 34 of the IPC.

During the course of investigation of both the cases, the matter was referred to Mediation Centre of Tis Hazari Courts. The parties in both the cases agreed to settle their disputes. The settlement agreement pursuant to the mediation at the Tis Hazari Courts dated 20.03.2017 has been made part of the record.

Taking into consideration the aforesaid facts, namely, the dispute, which is private in nature, has been settled and that respondent No.2 is not now desirous of prosecuting any one of the petitioners, 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. 381/2015 dated 13.05.2015 (P.S. Nangloi) instituted for offences under Sections, 323, 354B and 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 28, 2017

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