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

+ CRL.M.C. 2963/2017

MILIND KUMAR @ TITTU & ANR Petitioners
Through: Mr. Pramod Kr. Sharma, Adv.

versus

STATE & ANR Respondents
Through: Mr. Arun Kr. Sharma, APP

CORAM:
HON'BLE MR. JUSTICE ASHUTOSH KUMAR
ORDER
% **01.08.2017**

Crl.M.A.12301/2017 (Exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

CRL.M.C. 2963/2017

The petitioners seek quashing of the FIR No.645/2015 dated 29.07.2015 (P.S. Kalkaji) instituted for offences under Sections 323, 354 and 452 of the IPC.

From the averments made in the FIR, it would appear that the respondent No.2 was playing music at high volume which caused disturbance to the parents of the petitioners, who are very old. When a protest was made by the petitioners, it was not accepted charitably and a fight took place. Now, with the passage of time and taking into account that the petitioners are neighbours of respondent No.2, the respondent No.2 has taken a conscious decision of not prosecuting the petitioners any further.

Be that as it may, the allegations levelled in the FIR also appear to be of trivial nature indicating that the occurrence took place in a flash of temper between the neighbours over a minor issue.

Taking into consideration the aforesaid facts, this court is of the view that no practical/useful purpose would be served in continuing with the investigation of this case. The settlement between the parties has been arrived at through the agency of the Mediation Centre at Saket Court.

The petitioners and the respondent No.2 are present in the court. The petitioners and respondent No.2 have been identified by the counsel for the petitioners.

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.]

Since the FIR does not disclose any serious offence and the respondent No.2 does not wish to prosecute the petitioners any further, the subject FIR namely FIR No. 645/2015 dated 29.07.2015 (P.S. Kalkaji) instituted for offences under Sections 323, 354 and 452 of the IPC is quashed along with all the proceedings emanating therefrom.

The petition is allowed and disposed of accordingly.

AUGUST 01, 2017/ns

ASHUTOSH KUMAR, J