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

+ **W.P.(CRL) 2756/2017**

SUMIT KAUSHIK & ANR

..... Petitioners

Through: Mr.Rishabh Relan and Mr.Dinesh
Malik, Advs.

versus

STATE DELHI ADMINISTRATION & ANR

..... Respondents

Through: Mr.Sanjay Lao, ASC with
Mr.Siddharth Sindhu, Adv.
Ms.Vinny Shangloo, Adv. for R-2.
SI Bachchan Singh, P.S.Mukherjee
Nagar.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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21.09.2017

Crl.M.A. No.15822/2017 (Exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

Crl.M.A. No. /2017 (to be numbered)

For the reasons stated in the application, the delay of 10 days in re-filing the petition is condoned.

Application stands disposed of.

W.P.(CRL) 2756/2017

The petitioners seek quashing of FIR No.397/2017 dated 12.06.2017 (P.S.Mukherjee Nagar) instituted for the offences under Sections 307/34 of the IPC and Sections 27/54 and 59 of the Arms Act.

The respondent No.2/complainant is alleged to have been assaulted by the petitioners and also fired at but the respondent No.2/complainant was not hurt by said firing. However, the respondent No.2 has only received simple injuries on his person. The averments made in the FIR reveal that the respondent No.2/complainant was coming back from library when he saw the petitioners fighting with some other boys of the locality. When the respondent No.2/complainant was spotted by these petitioners, without any rhyme or reason, the respondent No.2/complainant was assaulted and was also threatened. It has been alleged that firing was resorted to by one of the accused person but said firing did not hit the respondent No.2.

It has been submitted that the petitioners as well as respondent No.2 are students who are preparing for appearing in competitive examinations. The fight was over some other issue but the allegations have been levelled in order to add seriousness to the same.

A settlement has been arrived at between the parties and the respondent No.2 does not now wish to prosecute the petitioners any further.

Taking the status of the petitioners and the respondent No.2 (they are students), this Court is of the view that pendency of the litigation would enure in nobody's favour and the career of the petitioners would be spoiled. Nothing serious also has been alleged in the FIR.

Considering the aforesaid facts, 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.]

For the reasons afore-recorded, the FIR No.397/2017 dated 12.06.2017 (P.S.Mukherjee Nagar) instituted for the offences under Sections 307/34 of the IPC and Sections 27/54 and 59 of the Arms Act and all the emanating proceedings therefrom are quashed.

The petition is disposed of.

ASHUTOSH KUMAR, J

SEPTEMBER 21, 2017

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