

\$~44

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

+ W.P.(CRL) 2347/2017

A K NAUSHAD & ANR.

..... Petitioners

Through: Appearance not given.

versus

THE STATE & ANR

..... Respondents

Through: Ms. Kamna Vohra, ASC for State.
Mr. C.M. Sharma, Adv. for
complainant.
SI Bharat Singh, PS Farsh Bazar.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

%

02.11.2017

The petitioners have sought quashing of the FIR no. 245/2015 dated 20.03.2015 (P.S Farsh Bazar) instituted for the offences under Sections 420/341 of IPC and Section 174-A, which was added later.

At the outset, learned counsel for the petitioners has submitted that petitioner no. 1 is not present today in court as he is in U.S.A. He has further submitted that for the purposes of settling the dispute with the respondent no. 2/ complainant, the petitioner no. 1 had to sell off his property and he has also lost his job in U.S. Since he is in search of another job in the U.S, he has not been able to present himself before this court. A prayer has been made on his behalf for exemption of his appearance.

The petitioner no. 2 as well as respondent no.2/ complainant are present in court.

Respondent no. 2/complainant is a software service provider who had entered into a business deal with petitioner no. 1 for providing online software platform from where the customers of respondent no. 2/complainant would make payment to the processor/Bank.

The petitioner no. 2 is an employee of petitioner no. 1.

There were some disputes in the course of business and since the money which was due against the petitioners was not forthcoming, the respondent no. 2/ complainant, on advice, lodged the subject FIR.

It has been submitted that the petitioner no. 1 being a NRI and residing in USA did not know about the developments viz his being declared a PO in the case. He could know about the lodging of the case and he being declared a PO only when he was detained by police on his arrival in this country for meeting his ailing mother.

During the course of investigation and on being made aware of the relevant facts, the petitioners entered into a settlement with the respondent no. 2/complainant and have paid all his dues.

As a result, the respondent no. 2/complainant has taken a conscious decision not to prosecute the petitioners any further.

Taking into account the fact that the petitioners have settled the dispute with respondent no. 2/ complainant, this court is of the view that no useful purpose will be served in keeping the subject FIR alive.

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. 245/2015, PS Farsh Bazar instituted for the offence under Section 420/341 of IPC and Section 174-A which was added later and all the emanating proceedings therefrom are quashed.

The petition is disposed of.

Dasti.

ASHUTOSH KUMAR, J

NOVEMBER 02, 2017

NC