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

+ **W.P.(CRL) 2322/2017**

NITESH AGGARWAL Petitioner
Through **Mr. Abhishek Verma, Adv.**

versus

GOVT OF NCT OF DELHI & ORS Respondents
Through **Ms.Nandita Rao, A.S.C. with Mr.**
Archit Vashistha, Adv. for the State
Mr. Udghosh Thakran, Adv. for R-2
to R-6

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **17.08.2017**

CRL. M.A.13125/2017 (Exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(CRL) 2322/2017

The petitioner seeks quashing of the FIR No.114/2017 dated 18.04.2017 (P.S. Swaroop Nagar) instituted for offences under Sections 288, 388 and 427 of the IPC.

The petitioner, a contractor by profession, was getting a street repaired by filling earth. While the filling work was going on, the wall of the house of respondent No.2 collapsed. As a result of the aforesaid collapse of the wall, respondent No.2, Deepak Paswan, suffered fracture in his leg. Certain household items belonging to respondent No.3, who is now dead,

and is being represented by respondents No.4, 5 and 6, were also damaged.

During the course of the investigation of the present case, a settlement was arrived at between the parties. The petitioner has agreed to pay Rs.65,000/- to respondent No.2. The respondent No.2 has expressed his satisfaction over the same. So far as respondents No.4, 5 and 6 are concerned, they have agreed to accept Rs.20,000/- from the petitioner towards compensation for the damages to the household property.

The petitioner has been identified by his counsel and respondents No.4, 5 and 6 have been identified by their counsel as well as ASI Vijender Kumar.

It appears that respondent No.2 has not yet got himself treated for the fracture. As a samaritan, the petitioner has agreed to pay Rs. 15,000/- more to respondent No.2 towards the expenses which the respondent No.2 might incur in his treatment. The petitioner has promised to pay over and above the agreed amount during the course of the day. Rs.65,000/- in cash has been paid to respondent No.2 which he has accepted to his satisfaction. Rs.20,000/- has been paid to the respondent nos.4, 5 & 6.

Regard being had to the aforesaid facts, especially the conduct of the petitioner, namely, his readiness to provide compensation and succour to the persons who have suffered losses, 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 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. 114/2017 dated 18.04.2017 (P.S. Swaroop Nagar) instituted for offences under Sections 288, 388 and 427 of the IPC and all the emanating proceedings therefrom are quashed.

The petition is disposed of.

ASHUTOSH KUMAR, J

AUGUST 17, 2017

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