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

+ **W.P.(CRL) 2302/2017**

GOVIND CHAND

..... Petitioner

Through Mr.B.K. Jha, Adv. with Mr.M.K.
Chandhanu, Adv.

versus

STATE (GOVT. OF NCT OF DELHI) & ANR. Respondents

Through Ms.Richa Kapoor, ASC.
Insp.Badruddin Khan DIU/North East

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **16.08.2017**

CrI.M.A.13049/2017 (Exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(Crl.) 2302/2017

The petitioner seeks quashing of the FIR No.317/2015 dated 12.03.2015 (PS Bhajanpura) instituted for the offences under sections 420/406/468 of the IPC.

The petitioner is alleged to have withdrawn money from the account of the late husband of respondent no.2 after his death.

The FIR reveals that the late husband of respondent no.2 and the petitioner worked in the same branch of PNB bank and had good friendship. The petitioner was allegedly aware about an OD account of the late husband

of respondent no.2. When the respondent no.2 approached the bank for settling of post retiral dues of her late husband, she was made to understand that some amount has been adjusted by the bank as there was a withdrawal of Rs.3 lakhs from the account maintained by the late husband of respondent no.2. The respondent no.2 therefore suspected that because the petitioner was aware of the fact the late husband of respondent no.2 used to keep signed blank cheques in the drawer and had maintained an overdraft facility in the same branch, the same may have been misused by the petitioner.

Learned counsel for the petitioner, however, submits that the money from the OD account of the late husband of respondent no.2 was adjusted as he had taken loan from the bank and the EMI had to be adjusted from his account which he maintained in the bank.

So far as the petitioner is concerned, he had only deposited a cheque which was voluntarily signed by the late husband of respondent no.2 while returning the loan amount which he had taken from the petitioner.

However, taking into account the fact that the respondent no.2 was unaware of her husband having taken any loan from the petitioner for which he had got that amount withdrawn, the petitioner decided to return the aforesaid amount to the respondent no.2.

The petitioner has admittedly paid Rs.3 lakhs to respondent no.2, which assertion has been affirmed by respondent no.2 who is present in the Court.

The respondent no.2 is also not desirous of prosecuting the petitioner any further in the present case.

The petitioner as well as respondent no.2 are present and have been identified by their respective counsels.

Regard being had to the fact that the petitioner has paid the amount to respondent no.2, to which he was legally entitled and respondent no.2 having taken a decision of not prosecuting the petitioner any further, 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 reasons afore-recorded, the FIR No.317/2015 dated 12.03.2015 (PS Bhajanpura) instituted for the offences under sections 420/406/468 of the IPC and all the emanating proceedings therefrom are quashed.

The petition is disposed of.

ASHUTOSH KUMAR, J

AUGUST 16, 2017

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