

\$~36

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

+ **CRL.M.C. 3238/2017**

KANCHAN GUPTA & ORS Petitioners
Through **Mr. Kapil Chaudhary, Adv.**
versus

THE STATE (NCT OF DELHI) & ORS Respondents
Through **Ms. Neelam Sharma, APP.**

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% 23.08.2017

Crl.M.A.13323/2017

Exemption allowed subject to all just exceptions.

Application stands disposed of.

CRL.M.C. 3238/2017

The petitioners seek quashing of the FIR No.921/2015 dated 06.10.2015 (P.S. Mandawali Fazalpur) instituted for offences under Sections 354, 323, 509, 452 and 34 of the IPC.

It has been submitted that over some dispute with respect to supply of water in the respective houses of the petitioners and respondent No.2, a verbal spat between the parties took place leading to an occurrence for which the present FIR was lodged. It has been submitted that one of the petitioners lodged cross FIR No.918/2015 dated 06.10.2015 (P.S. Mandawali Fazalpur) under Sections 354, 506 and 509 of the IPC read with Section 8 of the POCSO Act, 2012.

It has been submitted that taking into account the fact that the petitioners and respondent No.2 have been neighbours for a very long time,

they have decided to settle the disputes amicably. It has been agreed upon between the parties that they will not pursue the case any further.

A settlement agreement has also been brought on record.

The petitioners have been identified by their counsel. The respondent No.2 has been identified by the IO of this case.

The nature of accusation in the FIR also appears to be of a trivial nature. The offences appear to be personal in nature having no societal impact.

Taking into account the aforesaid facts and the settlement, including the settlement between the parties, 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. 921/2015 dated 06.10.2015 (P.S. Mandawali Fazalpur) instituted for offences under Sections 354, 323, 509, 452 and 34 of the IPC and all the emanating proceedings therefrom are quashed.

The petition is disposed of.

ASHUTOSH KUMAR, J

AUGUST 23, 2017/ns