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

+ **W.P.(CRL) 2363/2017**

BHIM SEN

..... Petitioner

Through Mr.Tushar Gupta, Adv.

versus

STATE & ANR

..... Respondents

Through Ms.Nandita Rao, ASC with Mr.Archit
Vashistha, Adv.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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21.08.2017

Crl.M.A. 13380/2017 (Exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(Crl.) 2363/2017

The petitioner seeks quashing of the FIR No.1591/2015 dated 06.11.2015 (PS Neb Sarai) instituted for the offence under section 307 of the IPC.

The petitioner is said to have given a stab injury to the respondent no.2. It so happened that the respondent no.2 had got mutton for being prepared at home which was kept at the wash basin. A dog belonging to the petitioner removed the mutton. Respondent no.2, then made a complaint to the petitioner. The petitioner, infuriated by such complaint, stabbed the respondent no.2.

It has been submitted on behalf of the petitioner that assuming but not admitting that the allegation is correct, the act was perpetrated in a fit of rage, without understanding the nature and quality of the act. The petitioner could not have intended to inflict any serious injury on the respondent no.2 considering that it was a petty dispute and that the respondent no.2 was his neighbour. Though the injury has been found to be grievous, but then the respondent no.2 was at all times found to be absolutely well-oriented.

Ms.Nandita Rao, ASC, however, submits that the chargesheet in this case has been submitted under section 307 of the IPC.

Considering the fact that the petitioner is a neighbour, the respondent no.2 has taken a decision not to prosecute the petitioner any further.

The petitioner and respondent no.2 are present.

Regard being had to the nature of the accusation and the circumstances in which the injury was inflicted, this Court is inclined to quash the subject FIR. While saying so, this Court has kept in mind the holistic view that good relationship would be restored if the FIR is quashed.

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.1591/2015 dated 06.11.2015 (PS Neb Sarai) instituted for the offence under section 307 of the

IPC and all the emanating proceedings therefrom are quashed.

The petition is disposed of.

ASHUTOSH KUMAR, J

AUGUST 21, 2017

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