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

+ W.P.(CRL) 2474/2017

MAHATAV @ MEHTAB

..... Petitioner

Through

Mr. Nizamuddin, Adv. along with
petitioner in person

versus

STATE (NCT OF DELHI) & ORS

..... Respondents

Through

Mr.Piyush Singhal, Adv. for
Mr.Ashish Aggarwal, ASC
SI Prem Kumar, P.S. Sangam Vihar
Mr. Asif Ali, Adv. for R-2 along with
R-2 in person

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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31.08.2017

CRL. M.A.14231/2017 (Exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(CRL) 2474/2017

The petitioner seeks quashing of the FIR No.425/2017 dated 14.08.2017 (P.S. Sangam Vihar) instituted for offence under Sections 308 and 34 of the IPC.

From the averments made in the FIR, it appears that the occurrence took place out of trifle. The respondent No.2 and his brother are stated to be the owners of an eatery/*dhaba* where they were sitting together on the day of the occurrence. The petitioner had visited a neighbouring shop and had

ordered for a glass of juice. Later, the petitioner is said to have kicked a cow which was trying to eat the mangoes of the petitioner. The brother of respondent No.2 intervened. Later, the petitioner along with his associates is said to have gone to the shop of respondent No.2 and indulged in assault. No lethal weapon was used by the petitioner or his associates.

However, considering that no useful purpose would be served in continuing with the litigation, a settlement was arrived at between the parties on 15.08.2017.

Pursuant to the aforesaid settlement, the petitioner was required to pay Rs.20,000/- to respondent No.2 for having caused physical and bodily pain to respondent No.2. Out of the aforesaid amount, Rs.10,000/- has already been paid. The settlement deed indicates that after the quashing of the subject FIR, the remaining amount of Rs.10,000/- shall be paid.

Mr. Piyush Singhal, learned advocate has pointed out on behalf of the State that allegations have been levelled against another co-accused also.

Learned counsel appearing for the petitioner submits that the other co-accused is a minor and the FIR be quashed with respect to him as well.

The parties are present in Court, who have been identified by their respective counsels.

Taking into account the aforesaid facts, specially the simple nature of injuries suffered by the respondent No.2 and the settlement of disputes 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 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. 425/2017 dated 14.08.2017 (P.S. Sangam Vihar) instituted for offence under Sections 308 and 34 of the IPC and all the emanating proceedings therefrom are quashed.

The petition is disposed of.

Dasti.

ASHUTOSH KUMAR, J

AUGUST 31, 2017

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