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

+ W.P.(CRL) 2461/2017

VIRENDER @ BIJENDER & ORS

..... Petitioners

Through: Mr. Mahesh Tiwari & Mr. Umesh
Prasad, Advocates.

versus

THE STATE NCT OF DELHI & ANR

..... Respondents

Through: Mr. R.S. Kundu, ASC for State with
Ms. Shreshtha & Mr. Bhagat Singh,
Advocates.
SI Anuj.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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01.11.2017

The petitioners have sought quashing of the FIR No. 41/2017 dated 08.02.2017, PS Okhla Industrial Area instituted for the offence under Section 308/34 of IPC on the strength of the settlement.

The petitioners are alleged to have assaulted the respondents. Some occurrence had taken place in a wedding ceremony and as a sequel thereto, the petitioners are said to have assaulted one Jeetu and others. Jeetu had become unconscious on being attacked on his head by a plank of wood.

The occurrence appears to have arisen out of a trifle. However, the injury suffered by one of the respondents namely, Jeetu was found to be grievous in nature by the doctor. This court has been informed that the injured/Jeetu was released from hospital on the next date. Perhaps, the

injury was found to be grievous in nature, as it was on the vital portion of the body. The petitioners and the respondents are from the same locality and an agreement has been arrived at by the respondents not to prosecute the petitioners any further.

The reason for taking such decision is that there was no intention of the petitioners to hurt the respondents. Some occurrence had taken place earlier and the petitioners are thereafter, said to have indulged in a scuffle resulting in injuries to one of the victims.

The affidavits of the injured and other respondents have been brought on record which indicate that the matter has been settled between the parties.

Mr. R.S. Kundu, learned Additional Standing Counsel has submitted that the charge sheet in this case has already been submitted. Despite this, this court is of the view that no useful purpose will be served in continuing with the prosecution of the petitioners in the subject FIR any further. While saying so, this court has taken into account the relationship between the parties, the background of the occurrence and conscious decision of the respondents not to prosecute the petitioners any further. Though, one of the injuries found on the person of one of the respondents was found to be grievous in nature but the aforesaid injured/respondent was released from hospital only a day after. The charge sheet in this case has been filed only after the filing of the present petition seeking quashing of the subject FIR.

The petitioners have been identified by their counsel. The respondents have been identified by SI Anuj.

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. 41/2017 dated 08.02.2017, PS Okhla Industrial Area instituted for the offence under Section 308/34 of IPC and all the emanating proceedings therefrom are quashed.

The petition is disposed of.

ASHUTOSH KUMAR, J

NOVEMBER 01, 2017

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