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

+ W.P.(CRL) 2580/2017

M/S IMPERIA WISHFIELD PRIVATE LIMITED Petitioner

Through: Mr.Manoj Choudhary with Mr.Sachin Anand, Adv. along with AR of the peititoner-company in person.

versus

STATE & ANR

..... Respondents

Through: Ms.Richa Kapoor, ASC with mr.Varun Nagrath, Advocate.

SI Vinod Kumar, P.S. Sarita Vihar.

Mr.Arvind Singh & Mr.Shyed lamba, Adv. for R-2 along with R-2 in person.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **20.09.2017**

The petitioner seeks quashing of the FIR No.355/2016 dated 22.07.2016 (P.S. Sarita Vihar) instituted for the offences under Sections 406/420 and 34 of the IPC.

The respondent No.2 had purchased two commercial units in a building project of the petitioner at Gurgaon, namely, Elvedor. The respondent No.2 is alleged to have paid Rs.16 lakhs to the petitioner for the transfer of the aforesaid two commercial units but despite the payments having been made by the respondent No.2, neither the units were vended not the money was returned.

However during the course of the investigation, a settlement was arrived at and pursuant to such settlement, the respondent No.2 was required to to give total Rs.25 lakhs to the respondent No.2 towards full and final settlements of all the claims of respondent No.2. Out of the aforesaid

amount so settled, Rs.12.5 lakhs has already been paid.

Learned counsel for the petitioner has handed over a draft of Rs.12.5 lakhs (the balance amount) today in Court which has been accepted by the respondent No.2 who is present in person and has been identified by his counsel.

All the disputes between the petitioner and respondent No.2 are now settled.

Taking into account the aforesaid facts, viz. the settlement between the parties and the offence not being a public offence but only private in nature, 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 petitioner seeks quashing of the FIR No.355/2016 dated 22.07.2016 (P.S. Sarita Vihar) instituted for the offences under Sections 406/420 and 34 of the IPC and all the emanating proceedings therefrom are quashed.

The petition is disposed of.

Dasti.

ASHUTOSH KUMAR, J

SEPTEMBER 20, 2017/Bisht