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

+ CRL.M.C. 3541/2017

MANOJ BERA

..... Petitioner

Through: Mr.Mahavir Singh Farswan,
Advocate with Petitioner in person.

versus

STATE GOVT OF NCT OF DELHI & ANR

..... Respondents

Through: Mr.Sanjeev Sabharwal, APP for the
State with Complainant in person.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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04.09.2017

CRL.M.A.14431/2017

1. Exemption allowed, subject to all just exceptions.
2. The application is disposed of.

CRL.M.C.3541/2017

1. This petition has been filed by the petitioner under Section 482 Cr.P.C. seeking quashing of FIR No.1446/2015, under Section 354(A) IPC, PS Malviya Nagar.
2. The case FIR No.1446/2015, under Section 354(A) IPC, PS Malviya Nagar has been registered on the complaint of the respondent No.2/complainant that on 27th July, 2015 while she was going to her college,

on the way between Sheikh Sarai bus stop and her college, the petitioner was standing on the footpath facing towards her and he was showing his genitals. She called the PCR and he was handed to the police.

3. Learned counsel for the petitioner submits that during the pendency of the proceedings parties have amicably settled their dispute and have entered into a settlement/compromise deed dated 10th July, 2017 which is annexed with this petition as Annexure P-7.

4. Though the petitioners have been charged with the offences, some of them are non-compoundable, but in the decision in the case of ***Gian Singh v State of Punjab & Anr. 2012 (9) SCALE 257***, the three Judges Bench of the Supreme Court dealing with the issue of quashing of FIR has laid down the following guidelines:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences Under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed.

However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have

settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil favour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

5. Respondent No.2/complainant is present in Court today and affirms that she has amicably settled the dispute with the petitioner. She is not interested in prosecuting the petitioner any further and the FIR in question and all proceedings emanating therefrom may be quashed.

6. In view of the legal position as laid down in Gian Singh's case (supra) and the amicable settlement arrived at between the parties, I am of the considered view that no useful purpose would be served by continuing the criminal proceedings against the petitioner which will only be an exercise in futile and wastage of precious time of the Court.

7. However, in the facts and circumstances of the case, it is desirable that the petitioner must be burdened with cost. Accordingly, it is directed that a cost of Rs.25,000/- (Rupees Twenty Five Thousand) be deposited by the petitioner with the 'Home for Leprosy and T.B. Affected Beggars', Tahir Pur, Delhi- 110 093 within four weeks. A receipt of deposit of the same be filed in the Registry.

8. The said amount so deposited shall be kept in the saving bank account and shall be utilized to meet day to day urgent needs of the inmates.

9. Accordingly, the petition is allowed and FIR No.1446/2015 under Section 354(A) IPC, PS Malviya Nagar and consequential proceedings arising therefrom are hereby quashed.

10. A copy of this order be sent to the Superintendent, Home for Leprosy and T.B. Affected Beggars, Tahir Pur, Delhi-110093 for information and compliance.

Order *dasti*.

PRATIBHA RANI, J.

SEPTEMBER 04, 2017
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