

\$~48

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

+ W.P.(CRL) 2543/2017

ASHOK CHAUDHARY & ORS Petitioners

Through: Mr.Suraj Rathi and Mr.Siddharth
Singh, Advs.

versus

STATE & ORS Respondents

Through: Ms.Kamna Vohra, ASC.
ASI Arvind Kumar, P.S.Jagat Puri.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **05.09.2017**

Crl.M.A.14579/2017 (Exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(CRL) 2543/2017

The petitioners seek quashing of FIR No.221/2017 dated 20.08.2017 (P.S.Jagat Puri) instituted for the offence under Sections 323/435/509 with the aid of Section 34 of the IPC.

The averments made in the FIR discloses that some occurrence had taken place on 20.08.2017 with respect to parking of a car. It is alleged that the petitioners assaulted the respondents with legs and fists and also threatened to burn the car which was being driven by one of the respondents, who is the complainant of the case. It appears that there was some dispute at the time when the road in the colony was being constructed and the

complainant had tried to cross the road.

An attempt was therefore made to have the cars on such road removed for the purposes of construction of the road. One of the petitioners is stated to be a member of the resident welfare association and in that capacity he had asked for removing the car of the complainant from the site of construction.

During the course of investigation, the parties decided to settle their disputes after realizing the futility of the present litigation.

The injuries suffered by the respondents are stated to be simple in nature. It also does not appear from the averments made in the FIR that there was any intention to cause any bodily injury which could bring home the charges alleged against the petitioners.

The parties are present and have been identified by their respective counsels.

Taking into account the aforesaid facts namely the trivial nature of the disputes, simple injuries having been caused to the respondents and their decision not to prosecute the petitioners any further, 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.221/2017 dated 20.08.2017 (P.S.Jagat Puri) instituted for the offence under Sections 323/435/509/34 of the IPC and all the emanating proceedings therefrom are quashed.

The petition is disposed of.

ASHUTOSH KUMAR, J

SEPTEMBER 05, 2017

k