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

+ **CRL.M.C. 3687/2017**

MR CHATAR SINGH & ORS

..... Petitioners

Through: Mr.Faisal Naseem, Mr.Sadiq Ali &
Mr.Jitender Chaudhary, Advocates
with petitioners in person

versus

STATE (GOVT OF NCT OF DELHI) & ANR.

..... Respondents

Through: Mr.Sanjeev Sabharwal, APP for the
State
M.Naushad, Advocate for R-2 with
R-2 in person

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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11.09.2017

CRL.M.A.15006/2017

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

CRL.M.C. 3687/2017

1. This petition has been filed by the petitioners under Section 482 Cr.P.C. praying for quashing of the FIR No.611/2014 under Sections 323/354-A/451/506/509/34 IPC registered at PS Sarita Vihar, Delhi and the proceedings emanating therefrom on the basis of settlement between the parties.

2. The case FIR No.611/2014 under Sections 323/354-A/451/506/509/34 IPC, PS Sarita Vihar was registered on the statement made by the respondent No.2 to the effect that on 6th September, 2014 her father and brother were not at home and only she and her sister-in-law were present. At that time, petitioners entered in their house forcefully and started

misbehaving and abusing them. In the said FIR the allegation was also made that Petitioner No.2 Harish removed all his clothes and while in nude condition, made indecent gestures. Thereafter, the petitioners pushed them and gave beatings to them.

3. It is further stated in the petition that during the pendency of proceedings in the said FIR, the settlement has been arrived between the parties before the Mediation Centre, Saket Courts, New Delhi. The copy of the said settlement dated 20th May, 2017 has been annexed with the petition as Annexure-C.

4. All the petitioners are present in person and it is submitted by learned counsel for the petitioners that since the parties are closely related and they have settled the matter in terms of said settlement, the case FIR No.611/2014 under Sections 323/354-A/451/506/509/34 IPC, registered at PS Sarita may be quashed.

5. Since the allegations made by the respondent No.2/complainant against her uncle (Chacha) and his family are that her cousin Harish removed all his clothes and was in nude condition when he made indecent gestures, she has been asked about the correctness of such allegations. This has been necessitated for the reason that all the four petitioners are present in the Court. The petitioner No.1, Chatar Singh is an old person on wheel chair and the respondent No.2/complainant admits that his uncle Chatar Singh is in fact confined to wheel chair. The petitioner No.2, Harish aged about 24 years old is present in the Court along with his sister aged about 25 years old and mother. It appears highly improbable that in the presence of his own mother and elder sister he will remove his clothes and in nude condition, make indecent gestures to the complainant. The complainant submits that

there is a property dispute between the parties and due to frequent quarrel, in anger she made such allegation. Now she is married and her parents have also shifted from there and she wanted to put an end to this litigation.

6. 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.”

7. In view of the legal position laid down in *Gian Singh’s case* (Supra) and 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 petitioners, which will only be an exercise in futile and wastage of precious time of the Court.

8. Accordingly, in terms of the settlement arrived at between the parties, FIR No.611/2014 under Sections 323/354-A/451/506/509/34 IPC, PS Sarita Vihar, Delhi and all consequential proceedings emanating therefrom are hereby quashed. The petition is allowed.

9. Copy of the order be given *dasti* to the parties.

PRATIBHA RANI, J.

SEPTEMBER 11, 2017/‘pg’