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

+ W.P.(CRL) 2654/2017

SH MUKESH GUPTA & ORS

..... Petitioners

Through: Mr. A.K. Goyal, Advocate.

versus

THE STATE NCT OF DELHI & ANR

..... Respondents

Through: Mr. Sudesh Goyal, Advocate for R-2.
Inspector Jagdish Rai, PS Karol Bagh.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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24.10.2017

The petitioners have sought quashing of the FIR no. 856/2015 dated 14.10.2015, Police Station, Karol Bagh, instituted for the offence under Sections 420/406/467/468/421/34 of IPC.

The petitioners are said to have sold two shops to the complainant/ respondent no. 2, which was later learnt to have been earlier sold to other vendees.

It has been submitted on behalf of the petitioners that no sooner it was brought to the notice of the petitioners, the complainant/ respondent no. 2 was contacted and was informed that the petitioners are ready to return the money and in fact, recompense the complainant/ respondent no. 2 for all the losses.

Pursuant to a settlement having been arrived at between the parties, complainant/ respondent no. 2 has been paid double the amount which was

given by him to the petitioners. It has further been submitted on behalf of the petitioners that they own several shops and it was only by mistake that the two shops which were earlier sold, were again sold to the complainant/ respondent no. 2.

A memorandum of settlement dated 31.08.2017 has also been brought on record. The petitioner no. 1 who has executed the document of sale is present. The other petitioners, for some explicable reasons, have not come today. They are, but, related to petitioner no. 1.

The complainant/ respondent no. 2 is present, who has been identified by his counsel and Inspector Jagdish Rai, who is the IO of this case.

Taking into account the factum of settlement of the dispute between the parties and that the complainant/ respondent no. 2 has been fully recompensed, this court is of the view that no useful purpose will be served in keeping the investigation of this case pending.

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. 856/2015 dated 14.10.2015 (P.S. Karol Bagh) under Sections 420/406/467/468/421/34 of IPC and all the emanating proceedings therefrom are quashed.

The petition is disposed of.
Dasti.

ASHUTOSH KUMAR, J

OCTOBER 24, 2017
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