

\$~46

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

+ CRL.M.C. 4117/2017

SH NAVEEN CHAUDHARY & ORS

..... Petitioners

Through: Mr. Prashant Sharma and Mr.K.S.
Katiyar, Advocates.

versus

THE STATE

..... Respondent

Through: Mr. Arun Kumar, Sharma, APP
SI Deshpal, P.S. Gandhi Nagar,
Ms. Aruna Guleria, Adv. for R 2 to 5.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **10.10.2017**

Crl.M.A. 16510/2017 (Exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

CRL.M.C. 4117/2017

The petitioner seeks quashing of the FIR No.43/2008 dated 27.02.2008 (PS Gandhi Nagar) instituted for the offences under sections 114/147/148/149/354/427/452 IPC.

The owner of the house in question had sold the house to the petitioner No.1. The respondents no. 2 to 5 were the tenants in the aforesaid property. After the purchase of the property by petitioner No.1, an attempt was made to have the house vacated but without any notice to the respondents who were staying in that house peacefully as tenants. On the

day of the occurrence, it has been alleged that the petitioners tried to demolish the roof of the house and when the same was objected, the respondents were manhandled and behaved with in an improper fashion.

Hence the subject F.I.R.

During the course of the investigation of the subject FIR, a settlement was arrived at between the parties and the petitioner No.1 agreed to pay Rs.1 lakh each to respondents 2 to 5. It has been submitted on behalf of the petitioners that the aforesaid amount has already been paid to respondents 2 to 5. This assertion of the petitioners has been ratified by respondents 2 to 5 who are present in Court and have been identified by their counsel. There was a further arrangement between the parties that at the time of the quashing of the subject FIR, the respondents 2 to 5 will also get an amount of Rs.50,000/- each. That amount also, admittedly has been paid today. The petitioners have also paid an amount of Rs.5500/- to the respondents towards the cost of litigation.

Considering the aforesaid facts namely the settlement of all the disputes and the nature of accusation as against the petitioners, this Court is of the view that no fruitful purpose shall be served in allowing the investigation in this case to be continued and the subject FIR being kept alive.

However, Mr.Arun Kumar Sharma, learned APP, submits that FIR contains allegations regarding sexual misdemeanour which was investigated and charge sheet has been submitted. However, charges have not yet been framed.

Though there are certain allegations in the FIR that the respondents were hardly treated by the petitioners but it has been argued that such

allegations were not serious and that it was alleged as such only for the purposes of preventing the petitioner No.1 from getting the house vacated. Now the respondent Nos.2 to 5 are not desirous of prosecuting against the petitioner.

Taking into account the aforesaid facts, this Court feels 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, FIR No.43/2008 dated 27.02.2008 (PS Gandhi Nagar) instituted for the offences under sections 114/147/148/149/354/427/452 IPC and all the emanating proceedings therefrom are quashed.

The petition is disposed of.

Dasti.

ASHUTOSH KUMAR, J

OCTOBER 10, 2017

Bisht