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

+ W.P.(CRL) 2744/2017

AMARJEET DABAS & ANR. Petitioners

Through: Mr C.L.Gupta with Mr.Navdeep
Solanki, Adv.

versus

STATE OF NCT OF DELHI & ANR. Respondents

Through: Mr.R.S.Kundu, ASC with
Mr.Prem Sagar and Mr.Bhagat Singh, Adv.
SI Sandeep Malik, P.S. Dwarka North.
Mr.Arun Dabas, Adv. for R-2.

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HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **10.11.2017**

The petitioners seek quashing of the FIR No.406/2016 dated 24.08.2016 (PS Dwarka North) instituted for the offences under Sections 448/454/380 and 34 IPC.

The averments made in the FIR indicate that the complainant/respondent No.2 had been running his business of Tour and Travels from Flat No.84, Sarvodya Apartment, Pocket 8, Sector-12, Dwarka, which was taken on rent by him. On one occasion, when the complainant/respondent No.2 was hospitalised, the petitioners and their associates had opened the lock of the house and had entered in the said premises and locked it from inside.

Learned counsel for the petitioner states that the flat in question was

purchased by the petitioners from one Jai Prakash Saini on 18.05.2016. After the purchase, the petitioners came in possession of the aforesaid flat. The wife of the vendor of the petitioner, namely, Smt. Savita Saini had unauthorisedly executed a rent agreement with complainant/respondent No.2.

During the course of investigation, a settlement was arrived at between the parties and the complainant/respondent No.2, on coming to know that Mrs.Savita Saini could not have given the house on rent as it had already been sold to the petitioners, has vacated the house and has decided not to prosecute petitioners any further. The complaint which was lodged by the petitioners against the respondent No.2 is also likely to be withdrawn after the quashing of the present subject FIR.

The petitioners have been identified by their counsel. The respondent no. 2 has been identified by SI Sandeep Malik.

Taking into account the aforesaid facts, namely, the petitioners being owners of the aforesaid flat and a settlement having been arrived at between parties and the complainant/R-2 having vacated the flat in question, this Court is of the view that no useful purpose will be served by keeping the investigation of the present 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.406/2016 dated 24.08.2016 (PS Dwarka North) instituted for the offences under Sections 448/454/380 and 34 IPC and all the emanating proceedings therefrom are quashed.

The petition is disposed of.

Dasti.

ASHUTOSH KUMAR, J

NOVEMBER 10, 2017

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