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

+ **W.P.(CRL) 2795/2017**

RAJESH JAIN & ORS

..... Petitioners

Through: Mr.Chander M.Maini and Mr.Mayank
Maini, Advs.

versus

STATE & ANR

..... Respondents

Through: Mr.Ashish Aggarwal, ASC with
Mr.Piyush Singhal, Adv.
Mr.Sanjay Kumar Sharma, Adv. for
R-2.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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25.09.2017

Crl.M.ANo.16089/2017(exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(CRL) 2795/2017

The petitioners seek quashing of the FIR No.345/2016 dated 24.11.2016 (P.S.Sabzi Mandi) instituted for the offences under Sections 420/468/471/193/198 and 120B of the IPC, on the strength of settlement having been arrived at between the petitioners and respondent No.2.

It has been alleged that the petitioners, who were entrusted with the dominion of shares of respondent No.2, belied the trust and sold it without necessary/specific instruction by the respondent No.2. However, it has been submitted that a settlement was effected and an agreement was entered into

between the petitioners and respondent No.2 (the agreement referred to above, has been annexed as Annexure 'A' Colly.).

The agreement, inter alia, refers to the fact that the respondent No.2 does not wish to prosecute with the petitioners but subject to their paying an amount of Rs. 1 crore to respondent No.2 which would be towards his full satisfaction.

It has been submitted that out of the total settled amount of Rs.1 crore, Rs.50 lakhs has already been paid to the respondent No.2, which statement was affirmed by the learned counsel for the respondent No.2.

The Memorandum of Settlement indicates that the respondent No.2 would be given Rs.25 lakhs at the time of the quashing of the subject FIR. A Cheque of Rs.25 lakhs has been handed over to respondent No.2 today in Court, who is present in person and he has accepted the same. It has further been undertaken in the Memorandum of Settlement that the balance amount of Rs.25 lakhs shall be paid at the time of the withdrawal of the civil suit filed by respondent No.2.

Considering the aforesaid facts viz. the settlement between the parties, filing of a civil suit by respondent No.2 as against the petitioners for the recovery of the amount and the agreement to withdraw the aforesaid suit as well as the unwillingness of the respondent No.2 to prosecute the petitioners any further, this Court is inclined to quash the subject FIR. While saying so, this Court has taken note of the fact that the allegations in the FIR are *in personam* and arise out of misunderstanding between the parties.

This Court has also been informed that another case which was lodged by the respondent No.2 viz. FIR No.337/1997, has already been quashed by a co-ordinate Bench of this Court on 15.9.17, passed in

CrI.M.C.No.3422/2017.

Mr.Ashish Aggarwal, learned Addl.Standing Counsel, however has raised an objection that Mohan Lal Jain, who also was one of the accused, has not been included in the list of petitioners.

Leaned counsel for the petitioners, however, submits that the aforesaid Mohan Lal Jain was named in the body of the subject FIR but he has not been made accused in this case. Mr. Mohan Lal Jain was however, an accused in FIR No.337/1997 which has already been quashed by a Bench of this Court.

Considering the aforesaid facts, this Court is of the view that no useful purpose will be served in keeping the prosecution against the petitioners alive.

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.345/2016 dated 24.11.2016 (P.S.Sabzi Mandi) instituted for the offences under Sections 420/468/471/193/198 and 120B of the IPC and all the emanating proceedings therefrom are quashed.

The petition is disposed of.
Dasti.

SEPTEMBER 25, 2017
Bisht

ASHUTOSH KUMAR, J