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

+ CRL.M.C. 3995/2017

CHANDAN

..... Petitioner

Through: Ms.Prabha Mishra, Adv.

versus

STATE & ANR

..... Respondents

Through: Mr.Ashish Dutta, APP.

SI Vinod Kumar, P.S.Sarita Vihar.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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25.09.2017

The petitioner has sought quashing of FIR No.17/2013 dated 11.01.2013 (P.S.Sarita Vihar) instituted for the offence under Section 354 of the IPC.

It has been alleged by the respondent No.2 who is present in Court today that on 11.01.2013 while she was coming back home after attending to the call of the nature, she was misbehaved with by the petitioner. When the respondent No.2 raised alarm, an attempt was made to gag her. However, by that time, the mother of the respondent No.2 had arrived who caught the petitioner red handed.

It has been submitted on behalf of the petitioner that he is a farmer who had come from West Bengal to earn his livelihood in Delhi. The petitioner also had gone to the nearby deserted area for attending to the call of the nature.

The respondent No.2, out of some confusion raised alarm and the petitioner was held by the mother of the respondent No.2 out of some

misconception.

After the mother of the respondent No.2 and the respondent No.2 herself realised that there was no intention of the petitioner to commit any crime, they agreed for resolving the dispute. The complainant who is present in Court has submitted that she does not wish to prosecute the petitioner as the case was lodged out of confusion. She has also informed this Court that now she is married and any continuance of the investigation in the present case would only impact adversely on her matrimonial life.

The petitioner has been identified by Ms.Prabha Mishra, Adv. whereas the respondent No.2 has been identified by SI Vinod Kumar.

Considering the aforesaid facts, this Court is 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.17/2013 dated 11.01.2013 (P.S.Sarita Vihar) instituted for the offence under Section 354 of the IPC and all the emanating proceedings therefrom are quashed.

The petition is disposed of.

ASHUTOSH KUMAR, J

SEPTEMBER 25, 2017/k