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

+ W.P.(CRL) 2944/2017

RAJEEV GUPTA

..... Petitioner

Through

Mr. S.P. Paul with Ms. Sangeeta
Batra & Ms. Kiran Lata Pal, Advs.

versus

THE STATE GOVT OF NCT OF DELHI & ORS Respondents

Through

Ms. Kamna Vohra, ASC
SI Surdner Ahlawat, P.S. Moti Nagar
Mr. C.M. Jhap Liyal, Adv. for R-2 &
R-3

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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23.10.2017

CRL. M.A. 17141/2017 (Exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(CRL) 2944/2017

The petitioner seeks quashing of the FIR No.289/2017 dated 12.08.2017 (P.S. Moti Nagar) instituted for offences under Sections 186, 353, 332 of the IPC and Sections 3 and 4 of the Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage of Property) Act, 2008.

The allegation against the petitioner is of having created a ruckus in the hospital when he was not treated on time. He is also alleged to have

abused and assaulted one of the doctors and had damaged the property of the hospital.

It has been submitted on behalf of the petitioner that he has been suffering from epilepsy and glaucoma and on the day of the occurrence he was suffering from continuous intense headache. Since he was not attended to and he was not feeling well in the meanwhile, he lost his temper; but it was absolutely unintentional. The moment he realised that he had exceeded the bounds of civility, he apologised before respondents No.2 and 3.

Considering that the petitioner has been suffering from Glaucoma and had also in the past suffered from epileptic fits, the respondents No.2 and 3 who are the Chief Medical Officer and junior resident of A.S.B. Hospital, Moti Nagar respectively, have decided not to prosecute the petitioner any further. This is in keeping with the humane qualities of doctors who do face such situation in hospitals or clinics.

This court has interacted with the petitioner. He has expressed his regret over the incident which had occurred on 11.08.2017. He submits that he shall never, in future, indulge in such activities.

Ms. Kamna Vohra, ASC, on instructions, submits that charge sheet in this case has not yet been filed.

Taking into account the fact that the petitioner has been ailing from some time and his actions were not intentional, this court deems it appropriate to quash the subject FIR. While saying so, this court has taken into account that no useful purpose would be served in keeping the investigation in 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. 289/2017 dated 12.08.2017 (P.S. Moti Nagar) instituted for offences under Sections 186, 353, 332 of the IPC and Sections 3 and 4 of the Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage of Property) Act, 2008 and all the emanating proceedings therefrom are quashed.

The petition is disposed of.

ASHUTOSH KUMAR, J

OCTOBER 23, 2017

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