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

+ W.P.(CRL) 2924/2017

KAPIL SHARMA Petitioner
Through Mr. Deep Chand, Adv.

versus

STATE (NCT OF DELHI) & ORS Respondents
Through Ms. Nandita Rao, ASC for the State
SI Deshraj Singh, P.S. Gandhi Nagar

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **17.10.2017**

CRL. M.A.16993/2017 (Exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(CRL) 2924/2017 & Crl.M.A.16992/2017 (stay)

The petitioner seeks quashing of the FIR No.354/2017 dated 04.08.2017 instituted for offence under Section 326A of the IPC. It has been submitted that the petitioner and the respondent No.2/complainant conduct their respective business from the same building but from different floors. The petitioner runs a washing plant whereas the complainant/respondent No.2 runs a zip manufacturing unit.

On the day of the occurrence, pursuant to a verbal spat between the parties, the petitioner is said to have poured one spoon of zinc waste over the body of the complainant/respondent No.2 and one of his staff, leading to

acidic injuries, which were opined to be simple in nature.

Considering the fact that the petitioner and the respondent No.2/complainant are working at the same place and there was no intention of the petitioner of causing any bodily injury to the respondents, the complainant/respondent No.2 and his staff have taken a conscious decision of not prosecuting the petitioner any further.

Thus the present writ petition for quashing of the FIR has been on the strength of settlement.

This court also notices the fact that there is no monetary transaction between the parties and the decision not to prosecute the petitioner stems out only out of consideration that there was no intention of the petitioner of hurting the respondent No.2/complainant as well as the fact that petitioner and respondent No.2 are carrying on their vocation from the same building.

This Court is of the view that no useful purpose would be served in keeping the investigation of the present case alive.

The petitioner has been identified by his counsel. The respondents No.2 and 3 have been identified by SI Deshraj Singh.

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. 354/2017 dated

04.08.2017 instituted for offence under Section 326A of the IPC and all the emanating proceedings therefrom are quashed.

The petition is disposed of.

Dasti.

ASHUTOSH KUMAR, J

OCTOBER 17, 2017

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