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

+ **W.P.(CRL) 3155/2017**

MANJEET SOLANKI & ANR

..... Petitioners

Through Mr. Pradeep Teotia and Mr. Akash
Verma, Advocates with petitioners-
in-person

versus

THE STATE GOVT OF NCT OF DELHI & ORS Respondents

Through Mr. Ashish Negi, Adv. for Ms. Richa
Kapoor, ASC
SI Sonu Ram, P.S. Aman Vihar

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **15.11.2017**

CRL. M.A.18650/2017 (Exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(CRL) 3155/2017

The petitioners seek quashing of the FIR No.1519/2014 dated 31.12.2014 (P.S. Aman Vihar) instituted for the offences under Sections 308/323/392/394/452/506 and 34 of the IPC.

It has been alleged in the FIR that the petitioners, who are the children of the cousin of respondent No.2, troubled the respondent No.2 and as a result of that, respondent No.2 had changed his residence. His house in the village was given on rent.

The petitioners are alleged to have fought with the tenant of

respondent No.2. Later, on the day of the occurrence, while respondent No.2 had kept an amount of Rs.2,50,000/- on a table inside the room and had become busy in making preparations for *Pooja*, 3 persons entered the room and assaulted him as well as respondent No.3. The petitioners are said to be present outside the house/office and were exhorting the aforesaid miscreants for assaulting the respondents. The money which was kept on the table was taken away by the petitioners along with their associates in a white coloured vehicle. It appears that respondent No.3 has received injuries which are reported to be grievous in nature.

From the reading of the FIR, it would appear that there is a dispute with respect to the residential house of the petitioners and respondent No.2. Be that as it may, during the course of the investigation, taking into account the fact that the petitioners are directly related to the respondents, a conscious decision was taken by the respondents of not prosecuting the petitioners any further. There is no statement with regard to any transaction of money. The FIR also does not specifically indicate as to which of the miscreants assaulted the respondent No.3, causing grievous injuries on his person.

The respondents, who are present in court, have, on interaction, stated that they are not willing to prosecute the petitioners as they are just like their children and only because of some misunderstanding, the occurrence mentioned in the FIR took place.

Mr. Negi, learned advocate for the State has drawn the specific attention of this court to the injuries suffered by respondent No.3 which is on the occipital region. The injuries on respondent No.2 is said to be simple in nature.

However, taking into account the relationship between the parties and the circumstances in which the occurrence took place, this court is of the view that if the FIR is allowed to be investigated despite settlement between the parties, it would only create further misunderstanding and would forestall the peace process between the two families.

Taking into account the fact that the petitioners are directly related to the respondents and that a compromise has been effected between them and the respondents, this court is of the view that no useful purpose would be served in continuing with the prosecution of the petitioners.

A Memorandum of Understanding between the parties has been brought on record.

The petitioners have been identified by their counsel. The respondents have been identified by their counsel and SI Sonu Dagar.

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. 1519/2014 dated 31.12.2014 (P.S. Aman Vihar) instituted for the offences under Sections 308/323/392/394/452/506 and 34 of the IPC and all the emanating proceedings therefrom are quashed.

The petition is disposed of.

ASHUTOSH KUMAR, J

NOVEMBER 15, 2017
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