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

+ W.P.(CRL) 3422/2017

RAVINDRA KUMAR & ORS

..... Petitioners

Through: Mr.Pankaj Kumar, Advocate

versus

THE STATE GOVT OF NCT OF DELHI & ANR Respondents

Through: Mr.Piyush Singhal, Advocate for
Mr.Ashish Aggarwal, ASC for the
State

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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06.12.2017

1. By way of this petition filed under Article 226 Constitution of India, read with Section 482 Cr.P.C. the petitioner is seeking quashing of FIR No.662/2014 under Section 307/323/341/34 IPC, registered at PS Jafrabad, Delhi.

2. Case FIR No.662/2014 under Section 307/323/341/34 IPC, registered at PS Jafrabad, Delhi was registered on the basis of statement made by Sh.Brij Mohan Aggarwal. As per this FIR, on 9th October, 2014 at about 8:30 pm when he was present on the street outside his house, a lady who stays on rent in his neighbourhood was having quarrel with his bhabhi over some issue related to kids. At that time a boy named Narender @ Tinku came and started talking rudely to his bhabhi. When the complainant tried to enquire about the matter and asked why he was talking so rudely to his

bhabhi, the accused started abusing him and asked him to wait for ten minutes. Later Narender @ Tinku along with three boys Surender @ kallu, Saurabh and Dharmender, holding sword and iron rods in their hands, came at the spot. At that time the friend of the complainant - Vipin Chaudhary also came there and on the same issue Narender @ Tinku and the boys who came along with him held the complainant and his friend and pushed them on the road and started hitting them with sword and iron rods. At that time some more boys reached there and started hitting them with sword and iron rods. Ravinder and Surender hit sword on the head of the complainant, due to which he started bleeding and fell on the ground and those boys ran from the spot. At the time of fight with the boys his gold chain also broke and fell at the spot. As the complainant and his friend got injured at the hands of Narender @ Tinku and other boys who came along with him, he lodged the FIR No.662/2014 at PS Jafrabad, Delhi to take action against the accused persons.

3. It is mentioned in the petition that during the pendency of above the FIR, with the intervention of the relatives and other respective persons of the locality, the parties arrived at an amicable settlement and entered a compromise deed dated 25th May, 2016. Copy of the compromise deed has been annexed with the petitions as Annexure P3.

4. Learned counsel for the petitioners submits that since the parties have settled their dispute amicably, no purpose would be served by prosecuting the petitioners any further, hence both the FIRs may be quashed.

5. In the decision reported as State of M.P. vs. Manish & Ors. (2015) 8 SCC 307, while discussing the scope and power of the High Court under Section 482 Cr.P.C. to quash the criminal proceedings in a heinous/serious

offence on the basis of settlement has been reiterated. In the above noted case, on the basis of settlement between the parties proceedings in case under Section 307/294/34 IPC were quashed by the High Court. The State preferred an appeal against the decision of High Court of Madhya Pradesh in Misc. Criminal Case No.4013/2013.

6. The question that came up for consideration before the Apex Court was whether based on out of Court settlement alleged to have been reached between the private parties, the offences of this nature falling Under Sections 307, 294 and 34 Indian Penal Code which are not covered by Section 320 Code of Criminal Procedure can be taken note of and such orders of quashing of the proceedings can be passed in exercise of powers Under Section 482 Code of Criminal Procedure.

7. After reiterating the principles laid down in Gian Singh v State of Punjab & Anr. 2012 (9) SCALE 257 it was held as under:-

7. When we apply the principles set down therein, it can be stated that when it comes to the question of compounding an offence Under Sections 307, 294 and 34 Indian Penal Code along with Sections 25 and 27 of the Arms Act, by no stretch of imagination, it can be held to be an offence as between the private parties simpliciter. Inasmuch as such offences will have a serious impact on the society at large, it runs beyond our comprehension to state that after the commission of such offence the parties involved have reached a settlement and, therefore, such settlement can be given a seal of approval by the Judicial Forum.

8. In the circumstances, the High Court unfortunately having failed to appreciate the said legal position, the impugned order cannot be sustained. We are, therefore, convinced that in a situation where the private Respondents herein are facing trial for offences Under Sections 307, 294 read with 34 Indian Penal Code as well as Sections 25 and 27 of the Arms Act, the cases pending trial before the Court in Criminal Case No. 2602

of 2013, as the offences are definitely as against the society, the private Respondents will have to necessarily face trial and come out unscathed by demonstrating their innocence. The impugned order is, therefore, set aside and the Trial Court is directed to proceed with the trial in accordance with law.

9. With the above observations and directions, the appeal stands allowed.'

8. In view of settled legal position enumerated in Gian Singh's case (supra) and reiterated in State of M.P. vs. Manish & Ors. (supra), on the basis of settlement between the parties, criminal proceedings in the cases of heinous offences i.e. under Section 307 IPC cannot be quashed in exercise of extra ordinary powers vested in this Court under Article 226 of Constitution of India.

9. The petition is hereby dismissed.

PRATIBHA RANI, J.

DECEMBER 06, 2017

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