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

+ W.P.(CRL) 2485/2015

JYOTI KANSAL & ANR. Petitioners
Through Mr.Amit Goel, Adv.

versus

STATE (THE NCT OF DELHI) & ANR. Respondents
Through Mr.Avi Singh, ASC with Ms.Anya
Singh, Adv. for State.
SI Amit Dutt PS Lajpat Nagar.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **31.07.2017**

The petitioners seek quashing of the FIR No.496/2015 dated 02.06.2015 (PS Lajpat Nagar) instituted for the offences under sections 420/406 of the IPC.

The petitioners who are husband and wife had agreed to sell a property to respondent no.2, for which respondent no.2 paid an amount of Rs.40 lakhs to the petitioners. Later, respondent no.2 came to learn that the property in question has already been sold to respondent no.3. As such, the subject FIR was lodged.

During the course of investigation, there was a settlement of all disputes. The respondent no.3, who had come in possession of the said property, paid Rs.40 lakhs to respondent no.2 in place of paying it to the vendors i.e. petitioners. Because the respondent no.2 was put to this trouble of the property not being conveyed to him, despite his having paid

substantial amount towards purchase of the same, the petitioners agreed to pay an amount of Rs.5 lakhs as compensation which amount, admittedly, has been paid to the respondent no.2.

Petitioners have been identified by their counsel whereas respondent nos.2 & 3 have been identified by SI Amit who is the IO of the case.

Taking into account the aforesaid facts, namely, money of respondent no.2 having been returned to him and the petitioners having paid an amount of Rs.5 lakhs to respondent no.2 as compensation, this Court feels 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 aforesaid facts, the FIR No.496/2015 dated 02.06.2015 (PS Lajpat Nagar) instituted for the offences under sections 420/406 of the IPC and all other proceedings emanating therefrom are quashed.

The petition is disposed of in terms of the above.

ASHUTOSH KUMAR, J

JULY 31, 2017

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