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

+ **CRL.M.C. 2216/2016**

PARMOD KUMAR & ORS

..... Petitioner

Through

Mr. Sachin Dev Sharma, Mr. Rakesh Sharma, Advs.

versus

STATE OF DELHI & ANR

..... Respondent

Through

Mr. Izhar Ahmad, APP for State with SI Dhananjay Kumar, PS Tilak Nagar.

Mr. B.B. Sharma, Adv. for R2 with R2 in person.

Complainant in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **02.01.2018**

Vide the present petition, the petitioner no. 1 Parmod Kumar s/o Sh. Janeshwar Dayal, the petitioner no. 2 Kiran Kumar s/o Sh. Janeshwar Dayal, the petitioner no. 3 Sushil Kumar s/o Sh. Janeshwar Dayal and the petitioner no. 4 Janeshwar Dayal s/o Sh. Mam Raj seek quashing of the FIR No. 104/02, registered at PS Tilak Nagar, under Sections 323/324/506/34 of the Indian Penal Code, 1860 in relation to which the charge-sheet was filed under Sections 323/326/506/34 of the Indian Penal Code, 1860 and the charges were framed under Sections 326/506/34 of the Indian Penal Code, 1860 against the petitioner no. 1 Parmod Kumar s/o Sh. Janeshwar Dayal, the petitioner no. 2 Kiran Kumar s/o Sh. Janeshwar Dayal, the petitioner no. 3 Sushil Kumar s/o Sh. Janeshwar Dayal and the petitioner no. 4 Janeshwar Dayal s/o Sh. Mam Raj.

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The Investigating Officer has identified the petitioner no. 1 Parmod Kumar s/o Sh. Janeshwar Dayal, the petitioner no. 2 Kiran Kumar s/o Sh. Janeshwar Dayal, the petitioner no. 3 Sushil Kumar s/o Sh. Janeshwar Dayal and the petitioner no. 4 Janeshwar Dayal s/o Sh. Mam Raj as being the accused in relation to FIR No. 104/02, registered at PS Tilak Nagar, under Sections 323/324/506/34 of the Indian Penal Code, 1860. He has also identified the complainant Ombal s/o Sh. Budh Singh of the FIR No. 104/02, registered at PS Tilak Nagar, under Sections 323/324/506/325/326/34 of the Indian Penal Code, 1860 present today in the court and the respondent no. 2 Om Pal Singh s/o Sh. Budh Singh as being the injured of the said case. Photocopies of the proof of identity of the petitioners no. 1 to 4 are on the record, which are Ex.CW1/A to Ex. CW1/D respectively and the proof of identity in the form of original Aadhar Cards of the complainant Ombal s/o Sh. Budh Singh and of the respondent no. 2 Om Pal Singh s/o Sh. Budh Singh bearing nos. 959371651147 and 854692777437 respectively have been produced, copies of which are directed to be placed on the record.

The respondent no. 2 is also present today in the Court and has been examined by the Court and he has testified that a settlement has been arrived at between the parties at the Delhi Mediation Centre, Tis Hazari Courts, Delhi on 18.03.2016 and his signatures are visible on the certified copy of the mediation centre at points-A on each page thereof on Ex.CW2/A and pursuant to the said settlement, he had vacated the tenanted premises bearing no. RZ-23, Vishnu Garden, New Delhi and the shop belonging to the petitioner no. 4 Janeshwar Dayal s/o Sh. Mam Raj. He has also testified that he has been compensated for the injuries sustained by him to the tune of

Rs.2.75 lacs by the petitioners no. 1 to 4 above named and he does not oppose the prayer made by the petitioners no. 1 to 4 above named seeking quashing of the FIR No. 104/02, at PS Tilak Nagar, under Sections 323/324/506/325/326/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom and he does not want any of the petitioners to be punished in relation thereto. The complainant Ombal s/o Sh. Budh Singh has testified to the similar effects.

Learned APP for the State also in the circumstances of the case does not oppose the prayer made by the petitioners seeking quashing of the FIR No. 104/02, at PS Tilak Nagar, under Sections 323/324/506/325/326/34 of the Indian Penal Code, 1860.

Taking into account the statement made by the complainant and the respondent no. 2, there appears no reason to disbelieve the said statements made by the complainant and the respondent no. 2 that they have arrived at a settlement voluntarily on their own accord without any duress or coercion from any quarter. Thus to maintain peace and harmony between the parties and as it is apparent that there is no likelihood of any conviction, in view of the observations in the verdict of the Hon'ble Supreme Court in ***Gian Singh vs. State of Punjab & Another***, (2012) 10 SCC 303, to the effect : -

“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.]”

(emphasis supplied)

it is thus considered appropriate in the interest of justice that the prayer made by the petitioner no. 1 Parmod Kumar s/o Sh. Janeshwar Dayal, the petitioner no. 2 Kiran Kumar s/o Sh. Janeshwar Dayal, the petitioner no. 3 Sushil Kumar s/o Sh. Janeshwar Dayal and the petitioner no. 4 Janeshwar Dayal s/o Sh. Mam Raj seeking quashing of the FIR No. 104/02, registered at PS Tilak Nagar, under Sections 326/506/34 of the Indian Penal Code,

1860 and all consequential proceedings emanating therefrom is allowed against the petitioner no. 1 Parmod Kumar s/o Sh. Janeshwar Dayal, the petitioner no. 2 Kiran Kumar s/o Sh. Janeshwar Dayal, the petitioner no. 3 Sushil Kumar s/o Sh. Janeshwar Dayal and the petitioner no. 4 Janeshwar Dayal s/o Sh. Mam Raj, which is thus accordingly allowed, and the FIR No. 104/02, registered at PS Tilak Nagar under Sections 323/324/506/34 of the Indian Penal Code, 1860 in relation to which charges under Sections 326/506/34 of the Indian Penal Code, 1860 were framed and all consequential proceedings emanating therefrom are quashed.

The petition is disposed of.

ANU MALHOTRA, J

JANUARY 02, 2018/MK