

\$~2

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

+ **CRL.M.C. 4735/2017**

RAMESH KUMAR & ANR

..... Petitioners

Through

Mr. Dushyant Chudhary, Adv. with
petitioners in person.

versus

THE STATE GOVT OF NCT OF DELHI & ORS Respondents

Through

Mr. Kamal Kr. Ghei, APP for State
with SI Ombir, PS Nand Nagari,
Delhi.

Mr. Jaiveer, Adv. for R2 to R4 with
R2 to R4 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

%

04.01.2018

Vide the present petition, the petitioner no.1 Shri Ramesh Kumar, s/o late Shri Nathu, petitioner no. 2 Shri Suresh Chand @ Lali, s/o late Shri Nathu, petitioner no.3 Shri Sharwan @ Pappan s/o late Shri Nathu, petitioner no.4 Ravinder Singh @ Bittu, s/o Shri Ramesh Kumar and petitioner no.5 Shri Budhram @ Kukkan, s/o late Shri Nathu seek quashing of the FIR No.224/2010, registered at PS Nand Nagri, under Sections 323/324/34 of Indian Penal Code, 1860 submitting to the effect that a mediation settlement dated 06.10.2017 arrived at the Delhi Mediation Centre, Karkardooma Courts, Delhi between the parties and certified copy of the said mediation centre is on record as Ex. CW2/B.

The Investigating Officer on the basis of the documents produced by the petitioner no.1 Shri Ramesh Kumar, s/o late Shri Nathu, petitioner no. 2

Shri Suresh Chand @ Lali, s/o late Shri Nathu, petitioner no.3 Shri Sharwan @ Pappan s/o late Shri Nathu, petitioner no.4 Ravinder Singh @ Bittu, s/o Shri Ramesh Kumar and petitioner no.5 Shri Budhram @ Kukkan, s/o late Shri Nathu has identified them as being the accused in relation to FIR No.224/2010, registered at PS Nand Nagri, under Sections 323/324/34 of Indian Penal Code, 1860. He has also identified the respondent no. 2 Shri Jitender, s/o Shri Sardare, respondent no.3 Shri Rahul, s/o Shri Sardare and respondent no.4 Shri Bijender, s/o Shri Sardare also present today in Court as being injured in relation to the said FIR. The proofs of identity of the petitioner nos. 1 to 5 and of the respondent nos. 2, 3 & 4 have been produced, photocopies of which are on the record as Ex. CW1/A to Ex. CW1/I respectively, originals of which have been seen and returned.

The respondent no. 2 Shri Jitender, s/o Shri Sardare, respondent no.3 Shri Rahul, s/o Shri Sardare and respondent no.4 Shri Bijender, s/o Shri Sardare are present today in the Court and have been examined by the Court and they have testified that their affidavits annexed to the petition bear their signatures thereon at points-A and B on Ex.CW2/A, Ex.CW3/A & Ex.CW4/A, which they have signed voluntarily of their own accord without any duress or coercion from any quarter. They have further testified to the effect that a mediation settlement dated 06.10.2017 has been arrived at the Delhi Mediation Centre, Karkardooma Courts, Delhi between the parties and the certified copy of the said mediation centre is on record as Ex. CW2/B which they have signed voluntarily of their own accord without any duress or coercion from any quarter. The respondents above named have further testified to the effect that they do not oppose the prayer made by the petitioners above named seeking quashing of the FIR No.224/2010,

registered at PS Nand Nagri, under Sections 323/324/34 of Indian Penal Code, 1860 inasmuch as the petitioners are their neighbours and they have made their statements voluntarily of their own accord without any duress or coercion from any quarter and they do not seek that the petitioners be punished in relation to the FIR No.224/2010, registered at PS Nand Nagri, under Sections 323/324/34 of Indian Penal Code, 1860.

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.224/2010, registered at PS Nand Nagri, under Sections 323/324/34 of Indian Penal Code, 1860.

Taking into account the statement made by the respondent no. 2 Shri Jitender, s/o Shri Sardare, respondent no.3 Shri Rahul, s/o Shri Sardare and respondent no.4 Shri Bijender, s/o Shri Sardare present today in the court i.e. the injured of the FIR No.224/2010, registered at PS Nand Nagri, under Sections 323/324/34 of Indian Penal Code, 1860 and the factum that a mediation settlement dated 06.10.2017 has been arrived at the Delhi Mediation Centre, Karkardooma Courts, Delhi between the parties and the certified copy of the said mediation settlement is on record as Ex. CW2/B which they have signed voluntarily of their own accord without any duress or coercion from any quarter and that the respondents above named do not oppose the prayer made by the petitioners above named seeking quashing of the FIR No.224/2010, registered at PS Nand Nagri, under Sections 323/324/34 of Indian Penal Code, 1860 inasmuch as the petitioners are their neighbours, there is no reason to disbelieve that the statements made by the respondents voluntarily of their own accord without any duress or coercion from any quarter and thus to maintain peace and harmony between the

parties, 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 petitioners seeking quashing of the FIR No.224/2010, registered at PS Nand Nagri, under Sections 323/324/34 of Indian Penal Code, 1860 and all consequential proceedings emanating therefrom is allowed and thus the FIR No.224/2010, registered at PS Nand Nagri, under Sections 323/324/34 of Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioner no.1 Shri Ramesh Kumar, s/o late Shri Nathu, petitioner no. 2 Shri Suresh Chand @ Lali, s/o late Shri Nathu, petitioner no.3 Shri Sharwan @ Pappan s/o late Shri Nathu, petitioner no.4 Ravinder Singh @ Bittu, s/o Shri Ramesh Kumar and petitioner no.5 Shri Budhram @ Kukkan, s/o late Shri Nathu are quashed, the petition is disposed of.

ANU MALHOTRA, J

JANUARY 04, 2018

vm