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

+ CRL.M.C. 154/2018

SAGAR & ORS

..... Petitioner

Through: Mr. Amit Sinha, Adv.
Petitioner nos. 2 & 3 in person.

versus

THE STATE GOVT OF NCT OF DELHI Respondent

Through: Mr. Ashish Dutta, APP for State with
SI Omvir, PS Nand Nagri.
R-2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **17.01.2018**

The petitioner no.1 is presently in JC in relation to FIR No. 937/17, PS Nand Nagri and has been produced pursuant to production warrants issued vide order dated 12.01.2018.

The Investigating Officer has identified the petitioner nos.1 to 3 and the complainant present today in Court and the proofs of identity of petitioner nos. 1, 2 & 3 and of the respondent no. 2 are on the record as Ex. CW1/A to D respectively (originals seen and returned).

Vide the present petition, the petitioner seeks quashing of FIR No. 813/16, registered at PS Nand Nagri, under Sections 308/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom.

The respondent no. 2 on her examination on oath by the Court has affirmed having signed her affidavit Ex. CW2/A annexed to the

petition voluntarily of her own accord and without any duress, coercion or pressure from any quarter and has stated that she has made her statement without anyone's influence and further has submitted that she does not the prayer made by the petitioner seeking quashing of FIR No. 813/16, registered at PS Nand Nagri, under Sections 308/34 Indian Penal Code, 1860 against the petitioner nos. 1 to 3 and does not want the petitioners to be punished in relation thereto. *Inter alia* she has testified to the effect that the FIR No. 814/16, PS Nand Nagri, under Section 308/34 of IPC, 1860 registered against her and her son Vishal and Akash has already been quashed vide order dated 08.01.2018 of this Court in CrI.M.C. No. 86/2018

Learned APP for the State has put forth the MLC bearing no. B0052 of the Guru Teg Bahadur Hospital, Shahdra, Delhi indicating that simple injuries were caused to the complainant. On behalf of the State, in the circumstances of the case there is no opposition to the prayer made by the petitioner seeking quashing of the FIR in question in view of the settlement arrived at between the parties..

In view of the statement made by the respondent no.2, there is no reason to disbelieve her statement that she has arrived at the settlement voluntarily of her own accord without any duress, coercion or pressure from any quarter.

In view of the submissions made by the respondent No.2 that the cross FIR in the instant case averted hereinabove has been quashed and taking into account the nature of injuries sustained by the respondent no.2 is simple and as there is no reason to disbelieve her statement that she has arrived at the settlement with her neighbours

voluntarily of her own accord without any duress, coercion or pressure from any quarter, for maintenance of peace and harmony between the petitioners and the respondent no.2 to allow the prayer made by the petitioners seeing quashing of the FIR in question 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 to put a quietus to the litigation between the parties in view thereof the FIR No. 813/16, registered at PS Nand Nagri, under Sections 308/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioner no.1 Shri Sagar and the petitioner no. 2 Shri Deepak and the petitioner no.3 Shri Asif are quashed

The petition is disposed of.

ANU MALHOTRA, J

JANUARY 17, 2018

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16

CRL.M.C. 154/2018

SAGAR & ORS

Vs. THE STATE GOVT OF NCT OF DELHI

Statement of CW1 : SI Omvir, PS Nand Nagri, Delhi.

ON S.A.

I identify the petitioner no.2 Shri Deepak, s/o Shri Vijay Pal and the petitioner no. 3 Shri Asif, s/o Shri Wakil Ahmad as being the accused in relation to the FIR No. 813/16, registered at PS Nand Nagri, under Sections 308/34 Indian Penal Code, 1860 and I also identify the respondent no. 2 Smt. Sunita as being the complainant of the FIR in question present today in Court. I also identify the petitioner no. 1 Shri Sagar, s/o Shri Vijay Pal on the basis of his Aadhar Card bearing no. 5870 2126 4906. The proofs of identity of petitioner nos. 1, 2 & 3 and of the respondent no. 2 are on the record as Ex. CW1/A to D respectively (originals seen and returned).

Apart from the petitioner nos. 1 to 3 there are no other persons arrayed as accused in the said FIR.

ANU MALHOTRA, J

RO & AC

JANUARY 17, 2018

16

CRL.M.C. 154/2018

SAGAR & ORS

Vs. THE STATE GOVT OF NCT OF DELHI

Statement of CW2 : Smt. Sunita, w/o Shri Raj Kumar, aged 48 years r/o H.No. 174, I-Block, Sunder Nagri, Delhi, near J-Block.

ON S.A.

My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/A which I have signed voluntarily of my own accord without any duress, pressure or coercion from any quarter. I do not oppose the prayer made by the petitioner seeking quashing of the FIR No. 813/16, registered at PS Nand Nagri, under Sections 308/34 Indian Penal Code, 1860 in view of the settlement arrived at between me and the petitioners.

I do not want the petitioners to be punished in relation thereto.

The FIR No. 814/16, PS Nand Nagri, under Section 308/34 of IPC, 1860 registered against me and my son Vishal and Akash has already been quashed vide order dated 08.01.2018 of this Court in Crl.M.C. No. 86/2018.

I have made this statement voluntarily of my own accord without any duress or coercion from any quarter.

ANU MALHOTRA, J

RO & AC

JANUARY 17, 2018