

via Video-conferencing

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

+ **W.P. (CRL.) 1251/2020**

SH. SOMDEV & OTHERS Petitioners

Through: Mr. Vikas Yadav, Advocate with
Ms. Upma Yadav, Advocate.

Versus

STATE AND ANOTHER Respondents

Through: Ms. Kamna Vohra, ASC for the State
with S.I. Jagmohan PS: Chhawala.
Respondent No.2 in-person.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **18.08.2020**

Crl. M.A. No.11109/2020 (exemption)

Exemption allowed, subject to just exceptions.

Application stands disposed of.

W.P. (Crl.) 1251/2020

By way of the present petition, petitioners Nos.1, 2 and 3, who are the real brother and nephews of respondent No.2/complainant, seek quashing of FIR No.620/2020 dated 24.06.2020 registered under sections 308/34 IPC at PS: Chhawala.

2. The genesis of the matter is a dispute over pruning of a tree standing on the plot of the respondent no.2 that was leaning towards the agricultural land of the petitioners, which led to an altercation that descended into petitioner No. 1 wielding a *danda* and petitioners Nos. 2 and 3 pelting stones on respondent No.2, who sustained injuries on his head. This led to registration of the subject FIR, whereupon petitioner No.3 was arrested on 24.06.2020 and is stated to have been granted bail by the trial court thereafter. The injury sustained by respondent No.2 was opined as being 'grievous'. However, after about 04 days in hospital, respondent No.2 was declared fit for statement and investigation is going-on.

3. Mr. Vikas Yadav, learned counsel appearing for the petitioners submits that since the petitioners are closely related family members, with the intervention of elders and others, the parties have settled their *inter se* disputes and an MoU dated 26.06.2020 has been signed between them, whereby they have agreed to bury their grievances and have also recorded that they would seek quashing of the FIR by moving a joint petition.

4. Mr. Yadav submits that it is in this backdrop that the present petition has come to be filed. The petition is supported by affidavits of all the petitioners as also of respondent No.2. All three petitioners and respondent No.2 have also joined the video-conference hearing and have been identified by Mr. Vikas Yadav.

5. Issue notice.

6. Ms. Kamna Vohra, learned ASC appears for the State on advance copy; accepts notice; and submits that although the offence alleged under section 308 IPC is not compoundable, it may be quashed by the court with consent of parties on the principles laid down by the Supreme Court in **Gian Singh vs. State of Punjab & Anr.** reported as (2012) 10 SCC 303, wherein the Supreme Court has *inter alia* opined as under:

“61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court. In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominately civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial,

mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

7. The court has also interacted with respondent No.2, who has confirmed that he has no further claim against any of the petitioners and has no objection to the FIR being quashed.

8. What weighs with this court is : *firstly*, that the genesis of the matter is an almost trivial dispute in relation to pruning of a tree abutting the land of the petitioners, which unfortunately descended into a fight and led to an injury to respondent No.2; *secondly*, that the injury sustained by the respondent No.2 has since healed and no lasting harm has been caused to respondent No.2; *thirdly*, that parties are real brothers and nephews and the continuance of proceedings in the FIR would only

result in further bad-blood and alienation of the parties, which would not be in the larger interest of peace and harmony within the family; and *fourthly*, that considering the nature and the genesis of the dispute, no prejudice to any third party is discernible in the matter.

9. In the circumstances, this court sees no reason why the FIR be not quashed on joint petition of the parties.

10. Accordingly, FIR No. 620/2020 dated 24.06.2020 registered under sections 308/34 IPC at PS: Chhawala and all proceedings emanating therefrom, are hereby quashed.

11. The petition is allowed and disposed of.

12. Other pending applications, if any, also stand disposed of.

ANUP JAIRAM BHAMBHANI, J

AUGUST 18, 2020

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