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

Date of decision: 16.04.2021

+ CRL.M.C. 723/2021 & CrI.M.A.3519/2021

MUJEEBUDDIN AND ANOTHER Petitioners

Through Mr. Bharat Dubey, Adv.

versus

THE STATE & ANR. Respondents

Through Mr. Izhar Ahmad, APP for State with
SI Mahesh, PS Kamla Market, Delhi
R-2 in person

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (O R A L)

The hearing has been conducted through video conferencing.

1. Vide the present petition, petitioners seek direction thereby for quashing of FIR No.172/2020, for the offences punishable under Sections 306/34 IPC, registered at PS – Kamla Market, Delhi and all other proceedings arising therefrom.
2. The present petition is filed on the ground that parties have amicably settled their disputes in terms of Memorandum of Settlement dated 22.01.2021 and respondent No.2, who is the complainant of FIR in question, has no objection if the present petition is allowed.

3. Respondent No.2 is personally present in Court through video conferencing with their counsel and he has been identified by SI Mahesh Kumar/IO as complainant of FIR in question.
4. Respondent No.2 submits that petitioners are related to him and the FIR in question was registered due to some misunderstanding, which now stands cleared and affirms the factum of settlement with petitioners in terms of Memorandum of Settlement dated 22.01.2021.
5. Learned counsel for petitioner has drawn attention of this Court to statement of complainant recorded before the trial court on 17.03.2021 to show that he does not wish to prosecute petitioners any further.
6. Learned counsel for the petitioners has relied upon following decision of Hon'ble Supreme Court in Criminal Appeal No.2086/2014 in ***State of Kerala & Ors. Vs. S. Unnikrishnan Nair & Ors.*** wherein it was observed that an inference has to be drawn from the circumstances and where circumstances had been such that a person felt totally frustrated and committed suicide, while dealing an application for quashing, the court cannot form a firm opinion rather a tentative view has to be taken and upheld the quashing of FIR by the High Court of Kerla.
7. Reliance is also placed upon decision of Punjab & Haryana High

Court in Crl. Misc. No. M-8747 of 2017 in ***Renu & Anr. Vs. State of Punjab & Anr.*** as well as CRM-M-37957-2015 where in somewhat similar circumstances, where the complainant had compromised the matter, the FIR under Section 306 IPC was quashed.

8. Similar view has been expressed in another decision of Punjab and Haryana High Court in CRM-M37957/2015 ***Harmesh Singh & Anr. Vs. State of Punjab & Anr.*** to submit that when the complainant compromised the matter offence under Section 306 IPC have been quashed

9. Although, as per the directions of the Hon'ble Supreme Court in ***Parbat Bhai Aahir and Ors. vs. State of Gujrat & Ors. (AIR 2017 SC 4843)***, the FIR should not be quashed in case of a heinous offence, but has further specified that the power to quash the FIR under Section 482 is attracted even if the offence is non-compoundable. Germane portion from the judgment is extracted below:-

“16.1. Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court.

16.2. The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence.

While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

16.3. In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.

16.4. While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court.”

10. Taking into account the aforesaid facts, this Court is inclined to quash FIR as no useful purpose would be served in prosecuting petitioners any further.

11. For the reasons afore-recorded and also keeping in view the aforesaid decisions, FIR No.172/2020, registered at PS – Kamla Market, Delhi and consequent proceedings emanating therefrom are quashed.

12. The petition is, accordingly, allowed and disposed of.

13. Pending application also stands disposed of.

**(SURESH KUMAR KAIT)
JUDGE**

APRIL 16, 2021

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