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

+ CRL.M.C. 1651/2022

KHALID ALIAS PAINTER & ORS. Petitioners

Through: Mr. Prem Shankar Jha, Mr. Arvind Kumar, Advs.

versus

THE STATE NCT OF DELHI & ANR. Respondents

Through: Mr. Amit Sahni, APP for the State with ASI Rajesh Kumar, ASI Satish Kumar, PS V. K. Yadav
Mr. B. K. Shahi, Adv.

+ CRL.M.C. 1656/2022

NAFEES AHMED SAIFI & ORS. Petitioners

Through: Mr. Prem Shankar Jha, Mr. Arvind Kumar, Advs.

versus

THE STATE NCT OF DELHI & ANR. Respondents

Through: Mr. Amit Sahni, APP for the State with ASI Rajesh Kumar, ASI Satish Kumar, PS V. K. Yadav
Mr. B. K. Shahi, Adv.

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Date of Decision: 29.08.2023

CORAM:
HON'BLE MR. JUSTICE DINESH KUMAR SHARMA



J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. The present petitions have been filed seeking quashing of the FIR No.107/2021 registered at PS Vasant Kunj South under Sections 323/308/341/506/34 of the IPC, 1860 in CRL.M.C. 1651/2022 and FIR No.106/2021, PS Vasant Kunj South, under Sections 323/308/452/34 of the IPC, 1860, submitting to the effect that a settlement has been arrived at between the parties vide a settlement agreement dated 21.06.2021 in CRL.M.C. 1656/2022.
2. Briefly stated, the present FIR was registered on the statement of Naib Ahmad stating therein that on 04/03/2021, around 6:00 PM, the complainant's brother Nafees was going to market, the complainant saw Khalid @ Painter beating his brother Nafees as he asked for the money borrowed by Khalid @ Painter. When the complainant tried to save his brother, the petitioner Khalid @ Painter assaulted him with a stick on his head due to which he became unconscious. Listening to this quarrel, the wife of Khalid, his son Naved, and Heena also rushed to the spot carrying stones and bricks in their hands. They were beating the complainant and his brother and during this member of their family Ahmad, Ishtkar, and Bikal also rushed to the street near the Mosque and started assaulting them with bricks, stones, and sticks and further threatened to kill them. Due to the blow of a stick on the complainant's head, he fell unconscious and someone called PCR. When he regained consciousness, the complainant found himself in



the Sarfdurjung Hospital where they were treated. At that time they could not give their statement to the Police but later after returning home, they gave their statement. Thereafter the FIR No.107/2021 was registered at PS Vasant Kunj South under Sections 323/308/341/506/34 of the IPC.

3. Similarly in FIRNo. 106/2021 registered at P.S. Vasant Kunj South under section 323/308/452/34 IPC, it has been alleged by respondent No.2 that she got into an altercation with the petitioners as the petitioner was smoking in front of their house to which she objected, subsequently other accused were called, and they allegedly assaulted her and her family members with *danda* and bricks.
4. After the investigation the charge-sheet was filed in both matters under Sections 323/308/341/506/34 of the IPC in FIR No.107/2021 and under section 323/308/452/34 IPC in FIRNo. 106/2021.
5. However, both parties have entered into a settlement vide settlement deed dated 21.06.2021 on the following terms and conditions:

“Whereas FIR no 107/2021 and 106/2021 both dated 06.03.2021 in FIR no. 1 06/2021 Under Section 323/308/452/34 IPC and in FIR no. 107/2021 Under Section 323/341/308/506/34 IPC were registered at P.S. Vasant Kunj South Delhi at 18:00 hrs and 18:00 hrs against each other party no. 1 and party no.2.

Whereas The complainant Naib Ahmed S/o Jameer Ahmed, has reported the incident of beating at the hand of First party namely (i) Khalid @ Painter S/o Vajid Ali Mehnaz W/o Khalid, Naved S/o Khalid all the three resident of Juggi No. 129, Israel Camp, New Delhi- 110037 and Zubeda @ Heena D/o Maruf Resident of H.No. Masjid Compound



Near Defence Enclave Mahipal pur New Delhi-110037, which had taken place on 06.03.2021 at 18:00hrs p.m and FIR no. 107/2021 has been registered.

Whereas FIR no 106 dated 06.03.2021 u/s 323/308/452/341PC was also registered at P.S Vasant Kunj South Delhi against Second party by complainant Mehnaz w/o Khalid wherein Complainant had reported incident of beating at the hand of second party namely Naib Ahmad Saifi S/o Jamir Ahmad Saifi, Nafees Ahmad Saifi S/o Jamir Ahmed Saifi, Ijhar Ahmad S/o Jamir Ahmad Saifi, Bikale Ahmad Saifi S/o Jamir Ahmad Saifi all R/o CS-120, B-Block Malikpur Kohi Rangpuri Pahari New Delhi- 110037 and Nizamuddin S/o Nihaluddin Rangpuri Pahadi, New Delhi-110037 R/o CN-509 Israel Camp Rangpuri Pahadi, New Delhi-110037

Whereas after due discussion and intervention of kith and kin, both parties have agreed to settle their disputes amicably and are ready to live peacefully,

Both the parties are further withdrawing the allegations and cross allegations against each other in the cross FIRS and both the parties decided to make formal statement for quashing of their FIR no. 106 and 107 of 2021 as they now realized that no purpose would be served by continuing with the prosecution to the said FIR

It is undertaken by both the parties that they will co-operate each other in signing the quashing petition and will appear before the Hon'ble High Court of Delhi as and when required to make necessary statements.

The settlement has been voluntarily arrived at between both the parties with their free will and consent and same has



been obtained without any force undue pressure undue influence or fraud or any coercion

And both the parties will bind by terms and conditions of the memorandum of settlement ”

6. I have interacted with the complainants who are present in Court and have duly been identified by the Investigating Officer. The complainants stated that they had arrived at the compromise voluntarily, out of their own free will, without any fear, force, or coercion. Further, they state that they have no objection if the present FIRs and the proceedings emanating therefrom are quashed. IO states that there is no other involvement of the petitioners in any criminal case.
7. It has also come to notice that Naib had suffered grievous injuries, therefore offence under Section 308 IPC was attributed as they were assaulted by Danda. As per MLC, there was an injury on two sides of the fore-head Lacerated wound (2x3cm.) on the left side of the Head of Naib. It seems that the incident had occurred at the spur of the moment, and it was not a pre-meditated assault. It is also a matter of debate that whether Section 308 IPC will actually be attributed or not in view of the nature of injuries.
8. It has repeatedly been held by this court and the Hon'ble Supreme Court that if there is a trivial dispute between the parties and they have settled the matter amicably, it is desirable to put a quietus to the matter in dispute. It has also been held that merely because the FIR is registered under Section 308 IPC, it would not debar the court from



quashing the FIR. The court has to look at the nature of injuries and all the attendant circumstances. Reliance can be placed on *Yashpal Chaudhrani and Others vs. State (Govt. of NCT Delhi) and Another*, 2019 SCC OnLine Del 8179; *Gian Singh v. State of Punjab*, (2012) 10 SCC 303.

9. Now since both the parties live in the same vicinity and have undertaken to maintain peace and harmony. In my opinion, it is in the interest of social harmony that they are given a chance to adhere to the settlement, which has been entered into between the parties out of their own free will.
10. Taking into account the totality of facts and circumstances and the fact that the parties have amicably decided to settle the matter, the case FIR No.107/2021 registered at PS Vasant Kunj South under Sections 323/308/341/506/34 of the IPC, 1860 in CRL.M.C. 1651/2022 and FIR No.106/2021, PS Vasant Kunj South, under Sections 323/308/452/34 of the IPC, 1860 in CRL.M.C. 1656/2022 and all the criminal proceedings emanating, therefore, are quashed.

DINESH KUMAR SHARMA, J

AUGUST 29, 2023

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