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

+ **W.P.(CRL) 1588/2023**

DEEPAK YADAV & ORS.

..... Petitioners

Through: Mr.Dharam Raj Ohlan (VC) and
Mr.Krishan Kant Kaushik, Advocates

versus

STATE (GOVT. OF NCT) & ANR.

..... Respondents

Through: Mr. Rahul Tyagi, ASC with Mr. Jatin
and Mr. Aashish Chojar, Adv. with
Inspector Naveen Kumar, PS S. P.
Badli.

Mr. Udit Kumra, Adv. for R-2

R-2-Charanjeet Yadav through VC

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Date of Decision: 14th July 2023

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

CRL.M.A. 14827/2023

Exemption allowed subject to just exceptions.



W.P.(CRL) 1588/2023

1. The present petition has been filed under Section 482 Cr. PC seeking quashing of FIR No.1235/2016 registered at PS Samaypur Badli under Section 308/34 IPC.
2. Briefly stated facts of the case are that the present FIR No.1235/2016 was lodged on the statement of Mr. Charan Jeet Yadav/Respondent no.2. The Respondent no.2 and the Petitioners are close family relatives and the quarrel in question was over a property. It is alleged that on 04.12.2016 at 7:30pm, the Petitioner no.1 called the Respondent no.2 and abused and threatened him. Thereafter at 9:30pm, the 3 Petitioners assaulted the Respondent no.2 using a brick, an empty glass bottle, an iron angle and a knife. It is further alleged that the efforts of the Respondent no.2 to run away were of no avail and consequently, after the petitioners left him beaten up, he was taken to the hospital by his servant and tenant.
3. However, due to intervention of relatives, friends and renowned personalities of Samaypur Village, the dispute between the parties has been settled amicably vide Mutual Agreement dated 28.03.2023 with the following terms and conditions:

And Whereas the expressions of all the parties mentioned above shall include their heirs, successors, executors, administrators and legal assigns of the respective parties.

AND WHEREAS both the parties had agreed that the Second Party/Shivdhan Singh Yadav has to give 16 feet street from front to end to the First Party and for that he has to demolish his front 6 feet and his 2 shops in the inner street 2-4 feet on 40/10 Main



Bawana Road, Samaypur Delhi-110042 by : 14/05/2023, from the rear side, both the parties can bring their wall forward upto 61 feet. If Second Party does not give 16 feet road by demolishing his shops and front, then the first party/ Deepak Yadav can do so and Second Party or his members cannot stop him or cannot take any legal action against him.

AND WHEREAS the First Party will be given Rs.11,00,000/- (Rupees Eleven Lacs only) cash for settlement out of 18 Lakhs by 25/03/2023 for can loan default, after that First Party cannot ask for any new money from the Second Party or his family against can loan default for BMW X5 Regn. No. DL-4CAV-1381.

Both the parties had agreed that 16 Feet common road will remain forever and no one can do any new connection on that road, nor can anyone challenge this decision. There can be no new division of 40/10 Main Bawana Road, Samaipur Delhi-110042 property in future, neither nor we not any of heirs can cheat.

Apart from this anyone can do construction on his remaining property at any time, others cannot stop his work, nor can any one complaint.

If Second Party does not give 16 feet path to the first party and does not break both his shops and front or First Party/Deepak Yadav makes some new demand, then legal action can be taken against each other.



Both the families will take back the complaints made against each other, whether it is a Civil Court Case, a Criminal Court Case or a police case or any FIR.

This decision has been taken in front of 03 big people of the Samaypur Village and they are the witnesses of this decision and their details are below

- i) Narain Singh Yadav
- ii) Surender Pal Yadav
- iii) Satish Yadav

Both family names & details

- i) Shivdhan Singh Yadav S/O Late Ganpat Singh Yadav
- ii) Himanshu Yadav & Lakshay Yadav both sons of Shri Chanderjeet Yadav S/O Shivdhan Singh Yadav
- iii) Mishri Devi Wife of Shivdhan Singh Yadav
- iv) Madhubala Yadav W/o Chander Jeet Yadav
- i) Deepak Yadav & Puneet Yadav S/O Late Kanwar Pal Yadav
- ii) Uma Yadav W/O Late Kanwar Pal Yadav

Both the parties had agreed that First Party front 40 ft. & back Ft. & second Party front 45 Feet & Back 44 Feet & 16 Feet Common path which 92 Ft. Length will be in the middle



AND WHEREAS both the parties mutually agreed on all the terms and conditions this agreement as mentioned above and all had put their signatures on this agreement after understanding each and every terms with their sound mind, good health and without any type of pressure.

4. The parties are present and have been duly identified by the IO. Further, the IO states that except the present FIR there is no other case against the petitioners.
5. Learned ASC has opposed the present quashing on the ground that an offence under Section 308 IPC has been committed. And that the charge sheet has been filed for offence under Section 308 IPC. However, this Court while exercising its power has to take into account the cumulative facts. Accordingly, the facts in the present case indicate that the parties are closely related, and the incident took place seven years ago and both the parties have amicably settled out of their own free will, without any fear, force or coercion.
6. It has been repeatedly held by the Hon'ble Supreme Court and this court that when the chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, and where the court may be of the opinion that a settlement between the parties would lead to better relations between them, the court may exercise power under section 482 CrPC for quashing the proceedings or the complaint or the FIR as the case may be.
7. However, taking into the account the facts and circumstances and the settlement taken on record, the petitioners should be appropriately



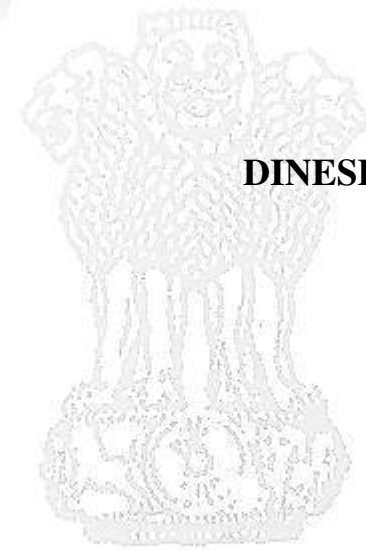
burdened with some cost. Thus, a cost of Rs.2,50,000/- each is imposed upon the petitioners to be deposited with the Advocates' Welfare Fund within 30 days.

8. It is submitted that the compliance report has been filed by the IO.
9. I consider that there would be no purpose of continuing with the proceedings. Taking into the account the totality of facts and circumstances the present FIR No.1235/2016 registered at PS Samaypur Badli under Section 308/34 IPC and all the other proceedings emanating therefrom are quashed.

DINESH KUMAR SHARMA, J

JULY 14, 2023

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