



2024:DHC:5527



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

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Date of Decision: 26.07.2024

+ **W.P.(CRL) 207/2024****AADIL MALIK & ORS.**

.....Petitioners

Through: Mr.Shabbir Ali and Mr.Ajay Raj
Singh, Advocates along with
petitioners in person.

versus

THE STATE (NCT OF DELHI) & ORS.

.....Respondents

Through: Mr.Yasir Rauf Ansari, ASC for the
State with Mr. Alok Sharma, Mr.
Vasu Agarwal, Mr.Hirak Anand and
Mr.Vikas Gond, Advocates alongwith
SI Kailash, P.S. Shaheen Bagh.
Respondent Nos.2 to 4 in person.

CORAM:**HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA****J U D G M E N T****ANOOP KUMAR MENDIRATTA, J (ORAL)**

1. Petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioners for quashing of FIR No. 422/2023, under Sections 323/341/308/34 IPC, registered at PS: Shaheen Bagh and proceedings emanating therefrom.

2. In brief, as per the case of the prosecution, present FIR was registered on complaint of respondent No.2 (Mohd. Azam) who alleged that he had lent Rs. 70,000/- to his friend petitioner No.2 (Sahil) to open a restaurant in



partnership. However Sahil failed to open the restaurant and returned back only an amount Rs. 40,000/- to respondent No.2. On 10.12.2023, respondent No.2 (Mohd. Azam) received a call from Sahil on pretext of returning the balance amount wherein he was assaulted along with his brother (Ayaan) and Gulab by petitioners i.e., Sahil Malik, Mohd. Aamir, Adil Malik, Faizan Malik and Shoyab Malik.

3. Learned counsel for petitioners submits that disputes between petitioner no. 2 and respondent no. 2, who were close friends, was over a minor issue of return of loan amount and matter has been mutually settled between the parties. He points out that the nature of injury suffered by the respondent nos. 2 to 4 was simple in nature and were discharged on the same day.

4. Respondent Nos. 2 to 4, who are present in person, admit that disputes have been amicably settled between the parties in terms of Memorandum of Understanding dated 11.01.2024 without any threat, pressure or coercion. They further submit that they have no objection in case the FIR is quashed.

5. Learned ASC for the State submits that in view of amicable settlement between the parties, he has no objection in case the FIR in question is quashed.

6. Petitioners in the present case seek to invoke the powers under Section 482 of the Code of Criminal Procedure. The same is to be used to secure the ends of justice or to prevent the abuse of process of Court. In which cases, the power to quash the criminal proceedings or the complaint or FIR may be used when the offender as well as victim have settled their dispute, would depend upon the facts and circumstances of each case and no



generalized list or categories can be prescribed. However, the Court is required to give due regard to the nature and gravity of the offence and consider the impact on the society.

7. It may also be observed that heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot be appropriately quashed despite settlement. However, distinguished from serious offences, the offences which have predominant element of civil dispute or offences involving minor incidents, where the complainant/victim also stands compensated for loss, if any, stand on a different footing, so far as exercise of inherent powers under Section 482 Cr.P.C. is concerned. The High Court also is not foreclosed from examining as to whether there exists material for incorporation of such an offence or as to whether there is sufficient evidence which if proved would lead to proving the charge for the offence charged with. It may also be assessed, if in view of compromise between the parties, the possibility of conviction in such a case is remote and whether continuation of proceedings would cause grave oppression and prejudice the accused.

8. Principles for quashing of FIR have been delineated in *Gian Singh vs. State of Punjab & Anr.*, (2012) 10 SCC 303 and *Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur & Ors. vs. State of Gujarat & Anr.*, (2017) 9 SCC 641. Predicated on settlement between the parties, FIRs under Sections 308/323/341/34 IPC have been quashed in '*Laxman Karotia & Ors. vs. The State NCT of Delhi & Ors.*', CRL.M.C. 813/2024 decided on 16.02.2024 by Co-ordinate Bench of this Court and '*Amit Kumar & Ors. vs. State & Ors.*', CRL.M.C. 2106/2024, decided on 15.03.2024 by this Court.



9. Petitioners and respondent Nos. 2 to 4 are present in person and have been identified by SI Kailash, PS: Shaheen Bagh. I have interacted with the parties and they confirm that the matter has been amicably settled between them without any threat, pressure or coercion. Respondent Nos. 2 to 4 submit that all the disputes between the parties have been amicably settled and they have no further grievance in this regard.

10. Parties intend to put quietus to the proceedings, which arose over a minor issue regarding return of loan amount. The nature of injuries suffered by respondent No.2 to 4 is simple in nature. The settlement shall promote harmony between the parties and permit them to move forward in life. Also the chances of conviction are bleak in view of amicable settlement between the parties. Further, no past involvement of the petitioners has been brought to the notice of this Court.

11. Considering the facts and circumstances, since the matter has been amicably settled between the parties, no useful purpose shall be served by keeping the case pending. Continuation of proceedings would be nothing but an abuse of the process of Court. Consequently, FIR No. 422/2023, under Sections 323/341/308/34 IPC, registered at PS: Shaheen Bagh and proceedings emanating therefrom stand quashed.

12. In the facts and circumstances, instead of imposing the costs upon petitioners, they are directed to plant 20 saplings of Neem trees each, which are upto 03 feet in height in the area of P.S.: Kalindi Kunj after getting in touch with the competent authority (i.e. Horticulture Department of MCD / DDA / Conservator of Forests, Department of Forests & Wildlife, Govt. of NCT of Delhi) through concerned IO / SHO, P.S.: Shaheen Bagh The



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photographs of planted saplings alongwith report of IO / SHO concerned shall be forwarded to this Court within eight weeks. Further, the upkeep of the saplings / trees shall be undertaken by the authorities concerned. In case of non compliance of directions for planting of trees, the petitioners shall be liable to deposit cost of Rs. 20,000/- each with the Delhi State Legal Services Authority.

Petition is accordingly disposed of. Pending applications, if any, also stand disposed of.

A copy of this order be forwarded to learned Trial Court for information.

ANOOP KUMAR MENDIRATTA, J

JULY 26, 2024

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