



2024:DHC:5999



\$~35 & 47

* IN THE HIGH COURT OF DELHI AT NEW DELHI

%

Date of Decision: 30.07.2024

+ CRL.M.C. 4332/2024

KARTIK RASTOGI & ANR.

..... Petitioners

Through: Mr. Rupal Luthra and Mr. Himanshu Dagar, Advocates with petitioners in-person.

versus

THE STATE NCT OF DELHI AND ANR.

..... Respondents

Through: Ms. Manjeet Arya, APP with SI Neha Poonia, PS: Krishna Nagar.
Mr. Suresh Kumar Dadlani, Advocate for Respondent No. 2.

+ W.P.(CRL) 1664/2024

GAURAV RUSTAGI & ORS.

..... Petitioners

Through: Mr. Suresh Dadlani and Mr. Ajit Kumar, Advocates with petitioners in-person.

versus

STATE OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Yasir Rauf Ansari, ASC with Ms. Namita Sharma, Ms. Monika Sharma, Mr. Ankit Bhadoria and Mr. Vishal Gupta, Advocates with SI Neha Poonia, PS: Krishna Nagar.
Mr. Rupal Luthra and Mr. Himanshu Dagar, Advocates for R-2 and R-3.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA



2024 :DHC:5999



%

J U D G M E N T**ANOOP KUMAR MENDIRATTA, J (ORAL)**

1. W.P.(CRL) 1664/2024 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 (Gaurav Rustagi, Sourabh Rustagi & Harish Chand) for quashing of FIR No. 0604/2020, under Sections 354/323/506/34 IPC, registered at P.S.: Krishna Nagar and proceedings emanating therefrom registered at instance of respondent No. 2/ B.R./abc.

2. CRL.M.C. 4332/2024 under Section 482 Cr.P.C. has been preferred on behalf of the petitioners (Kartik Rastogi and Om Prakash) for quashing of FIR No. 605/2020, under Sections 323/354/34 IPC, registered at P.S.: Krishna Nagar and proceedings emanating therefrom registered at instance of respondent No. 2/P.R./XXXXXXXX.

3. In brief, FIR No. 604/2020 was registered on complaint of B.R. who alleged that on 28.12.2020, when she alongwith her mother C.K. went to their house, she found that family members of her great uncle (Tauji/ Harish Chand/ petitioner No. 3 in W.P.(CRL.) 1664/2024) had locked the ground floor belonging to them. When BR asked for key, Sourabh Rustagi (son of Harish Chand/ petitioner No. 2 in W.P.(CRL.) 1664/2024) assaulted complainant and her mother and also inappropriately touched her. Harish Chand is alleged to have pushed her and allegations of misbehaviour and use of abusive language were also levelled against Gaurav Rustagi (petitioner No. 1 in W.P.(CRL.) 1664/2024).

4. FIR No. 0605/2020 was further registered as a cross FIR, daughter-in-law of Harish Chand that on 28.12.2020, Kartik Rastogi and Om Prakash



2024:DHC:5999



(petitioner Nos. 1 & 2 in CRL.M.C. 4332/2024) came to her house and touched her inappropriately. She also alleged that her husband (Gaurav Rustagi) and father-in-law (Harish Chand) were beaten by Kartik Rastogi and Om Prakash.

5. Learned counsel for the petitioners and respondents in respective cases submit that disputes between the parties relate to possession of property bearing No. 11/151, Gali No. 10, West Azad Nagar, Krishna Nagar, Delhi and counter FIRs were lodged in respect of an incident relating to possession of property on 28.12.2020. The disputes have been amicably settled between the parties in terms of settlement dated 02.03.2024. They further urge that petitioners in respective cases have clean past antecedents as confirmed by the learned APP for the State.

6. Learned APP/ ASC for the State in respective cases submit that in view of amicable settlement between the parties they have no objection in case the FIRs in question are quashed.

7. Petitioners in the present cases 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.

8. It may also be observed that heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot be



2024:DHC:5999



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.

9. Parties are present in person in respective cases and have been identified by SI Neha, P.S.: Krishna Nagar. I have interacted with them and they confirm that disputes have been amicably settled between them without any threat, pressure or coercion. Further, they have no grievance in this regard and pray that FIR's be quashed.

10. Parties intend to put quietus to the proceedings arising out of differences over issue relating to possession of property. 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 in respective cases 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



2024:DHC:5999



an abuse of the process of Court. Consequently, FIR No. 604/2020, under Sections 354/323/506/34 and FIR No. 605/2020, under Sections 323/354/34 IPC, both registered at P.S.: Krishna Nagar and proceedings emanating therefrom stand quashed.

12. In the facts and circumstances, instead of imposing the costs upon the petitioners, they are directed to plant 20 saplings of Neem trees each, which are upto 03 feet in height in the area of Krishna Nagar 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 IO / SHO, PS: Krishna Nagar. The 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.

Petitions are accordingly disposed of. Pending applications, if any, also stand disposed of.

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

A copy of this order be kept in connected petition.

ANOOP KUMAR MENDIRATTA, J.

JULY 30, 2024/R