



2024:DHC:9710



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 22.10.2024

+ CRL.M.C. 6465/2024
NITIN AND ORS

.....Petitioners

Through: Mr.Rohit Singh, Mr.Sujit Kumar and
Mr.Prince Kumar, Advocates.

versus

STATE (GOVT. OF NCT OF DELHI) AND ANRRespondents

Through: Ms.Meenakshi Dahiya, APP for State
with SI Sunny Khatri, PS Vijay Vihar.
Mr.Arpit Verma and Ms.Sakshi
Mishra, Advocates with R-2.

+ W.P.(CRL) 2462/2024
ATUL KUMAR & ORS.

.....Petitioners

Through: Mr.Arpit Verma and Ms.Sakshi
Mishra, Advocates.

versus

THE STATE (NCT OF DELHI) & ORS.

.....Respondents

Through: Ms.Rupali Bandopadhyay, ASC for
State with Mr.Abhijeet Kumar,
Advocate with SI Yogesh Kumar, PS
Vijay Vihar.
Mr.Rohit Singh, Mr.Sujit Kumar and
Mr.Prince Kumar, Advocates for
respondent.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

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J U D G M E N T

ANOOP KUMAR MENDIRATTA, J (ORAL)

CRL.M.C. 6465/2024 AND W.P.(CRL) 2462/2024

1. CRL.M.C. 6465/2024 under Section 528 of the Bharatiya Nagarik



Suraksha Sanhita, 2023 ('BNSS') has been preferred on behalf of the petitioners (Nitin Verma, Vineet Verma, Kailash Chand Verma, Javed, Sunil @ Bali and Ravi) for quashing of FIR No.424/2021, under Sections 308/323/341/34 IPC, registered at P.S.: Vijay Vihar and proceedings emanating therefrom.

2. W.P.(CRL) 2462/2024 under Article 226 of the Constitution of India read with under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') has been preferred on behalf of the petitioners (Atul Kumar, Amal Kumar, Vinod Kumar, Anuj Gupta, Gulab, Devendra Gupta and CCL (R), for quashing of FIR No.425/2021, under Sections 308/323/34 IPC, registered at P.S.: Vijay Vihar and proceedings emanating therefrom. Registry is directed to redact the name of CCL for purpose of present proceedings though he is stated to be presently aged about 21 years

3. Learned counsel for the petitioners in CRL.M.C. 6465/2024 submits that steps have been taken for filing of amended memo of parties for the purpose of impleading all the injured as parties on record but the amended memo of parties has been returned back under objection that affidavits of other injured is also required to be filed on record. Since the proposed respondents (injured) are present in person and have given their no objection, the amended memo of parties produced in this Court is taken on record without insisting upon filing of separate affidavits on record.

Learned counsel for the petitioners and respondents in respective cases inform that CCL 'R' is impleaded as petitioner No.6 in W.P.(CRL) 2462/2024 and as respondent No.7 in CRL.M.C. 6465/2024.

4. In brief, as per the case of the prosecution, FIR No. 424/2021 in CRL.M.C. 6465/2024, under Sections 308/323/341/34 IPC was registered on



statement of respondent No.2 (Atul Kumar) who alleged that on 15.08.2021 about 5 PM while he was proceeding to a friend's place, he was stopped by his neighbours Nitin Verma (Petitioner No.1) along with Ravi (Petitioner No.6) and Javed (Petitioner No.4) who appeared to be drunk. The complainant was assaulted as he refused their offer to consume liquor. Thereafter the complainant returned back to his house and his father (Vinod Kumar) and younger brother (Amal) accompanied him to resolve the matter with Nitin Verma and his friends. However, Nitin Verma along with Javed and Ravi assaulted them with sticks. Further, grandfather of Nitin Verma (Kailash Chand/Petitioner No.3) and brother of Nitin (Vineet/Petitioner No.2) also came to spot and assaulted complainant and his relatives.

5. FIR No. 0425/2021 in W.P.(CRL.) 2462/2024, under Sections 308/323/34 IPC was subsequently registered at the instance of Nitin Verma giving a different version of the incident. He alleged that on 15.08.2021 at about 05:00 PM, while he was standing with his friends and consuming liquor, upon which Atul Kumar (P1 in W.P. (Crl) 2462/2024) objected to and there was an altercation between the parties and he further alleged that respondent Nos. 2 to 7 were assaulted by Atul Kumar and his relatives (petitioner Nos.2 to 7 in W.P. (Crl) 2462/2024).

6. Learned counsels for the parties submit that disputes have been amicably settled between the parties in terms of Settlement Deed dated 02.04.2024. He further submits that the incident escalated only on account of minor misunderstanding between the parties. It is pointed out that parties who are residing in vicinity have clean past antecedents and are not involved in any other case.

7. Learned APP and learned ASC for the State in respective cases submit



that in view of amicable settlement between the parties, they have a no objection in case the FIRs in question are quashed.

8. Petitioners in present cases seek to invoke the powers under Section 528 BNSS. 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.

9. 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 528 BNSS 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.

10. 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.

11. Parties are present in person and have been identified by with SI Sunny Khatri and Yogesh Kumar, PS: Vijay Vihar. I have interacted with the parties and they confirm that the matter has been amicably settled between them without any threat, pressure or coercion. Respondents in respective petitions also submit that all the disputes between the parties have been amicably settled, and they have no objection in quashing of FIRs.

12. Parties intend to put quietus to the proceedings arising out of minor misunderstanding. The settlement shall promote harmony between the parties. The chances of conviction are bleak in view of settlement between the parties. No past involvement of the petitioners in respective cases has been brought to the notice of this Court.

13. 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.424/2021, under Sections 308/323/341/34 IPC and FIR No.425/2021, under Sections 308/323/34 IPC, both registered at P.S.: Vijay Vihar and proceedings emanating therefrom stand quashed.

14. In the facts and circumstances, instead of imposing the costs, petitioners in both petitions (except CCL 'R'), are directed to plant 20



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saplings of neem/jamun trees each, which are upto 03 feet in height in the area of P.S. New Ashok 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, P.S.: Vijay Vihar. 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 (except CCL 'R') 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 judgment be forwarded to the learned Trial Court for information.

A copy of this judgment be kept in connected petition.

ANOOP KUMAR MENDIRATTA, J

OCTOBER 22, 2024/VLD