



2024:DHC:6929



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 02.09.2024

+ CRL.M.C. 6862/2024

MOHD. YUSUF AND ORS

.....Petitioners

Through: Mr. Lokesh Kumar Mishra, Mr. Himanshu Sharma and Mr. Vinay Shau, Advs.

versus

STATE (GNCT OF DELHI) AND ANR.

.....Respondent

Through: Ms. Manjeet Arya, APP for the State with SI Shad Faisal, PS New Ashok Nagar.
Mr. Sumit Kumar and Mr. Haider Khan, Advs. for R-2.

+ CRL.M.C. 6712/2024

DEVENDER KUMAR AND ANR.

.....Petitioners

Through: Mr. Sumit Kumar and Mr. Haider Khan, Advs.

versus

STATE (GNCT OF DELHI) AND ANR

.....Respondents

Through: Ms. Manjeet Arya, APP for the State with SI Shad Faisal, PS New Ashok Nagar.
Mr. Lokesh Kumar Mishra, Mr. Himanshu Sharma and Mr. Vinay Sahu, Advs. for R-2.

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.A. 26238/2024 in CRL.M.C. 6862/2024****CRL.M.A. 25621/2024 in CRL.M.C. 6712/2024**

Exemptions allowed, subject to just exceptions.

Applications stand disposed of.

CRL.M.C. 6862/2024 AND CRL.M.C. 6712/2024

1. CRL.M.C. 6862/2024 under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') has been preferred on behalf of the petitioners (Mohd. Yusuf, Amir Khan, Fariyad Khan and Firoz) for quashing of FIR No.848/2015, under Sections 308/34 IPC, registered at P.S.: New Ashok Nagar and proceedings emanating therefrom.
2. CRL.M.C. 6712/2024 under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') has been preferred on behalf of the petitioners (Devender Kumar and Gopal Dass) for quashing of FIR No.855/2015, under Sections 323/341/506/34 IPC, registered at P.S.: New Ashok Nagar and proceedings emanating therefrom.
3. Issue notice. Learned APP for the State and learned counsel for respondent No. 2 along with respondent No. 2 in person appear on advance notice and accept notice.
4. In brief, as per the case of the prosecution, FIR No.848/2015 in CRL.M.C. 6862/2024, under Sections 308/34 IPC was registered on complaint of respondent No.2 (Devender Kumar @ Gaurav) who alleged that on 27.06.2015 at about 7:00 PM while he was proceeding in his car, some articles were found lying in front of a junk shop. He requested the owner of shop to remove the articles lying on the road, in order to enable his car to pass. However, sons of shop owner, namely Fariyad, Yusuf, Firoz and Amir



gathered at the spot and started abusing him. Further they refused to remove the articles and he was assaulted with sticks and rods.

5. FIR No.855/2015 in CRL.M.C. 6712/2024, under Sections 323/341/506/34 IPC was subsequently registered at instance of respondent No.2 (Amir Khan) giving a different version of same incident. He alleged that on 27.06.2015 at about 7:00 pm, while he was sitting at his brother's godown in New Ashok Nagar, Gopal and Devender Kumar @ Gaurav alongwith two other persons, consuming liquor called him to join. On his refusal, Gopal and Devendra Kumar @ Gaurav abused and slapped him. Further, accused were joined by two other persons and they threatened to kill him.

6. Learned counsels for the parties submit that disputes have been amicably settled between the parties in terms of Settlement Deed dated 15.05.2024. It is further submitted that the nature of injuries suffered by complainant Amir Khan in FIR No. 855/2015 were simple in nature. Further injuries sustained by Devender Kumar @ Gaurav in FIR No. 848/2015 were 'grievous' but the injured was discharged from the hospital on the same day. It is pointed out that petitioners who are residing in vicinity have clean past antecedents and are not involved in any other case.

7. Learned APP for the State submits that in view of amicable settlement between the parties, she has no objection in case the FIR in question is quashed.

8. 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.

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 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.

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 SI Shad Faisal, PS: New Ashok Nagar. 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 No. 2 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 altercation. 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.848/2015, under Sections 308/34 IPC and FIR No.855/2015, under Sections 323/341/506/34 IPC, both registered at P.S.: New Ashok Nagar and proceedings emanating therefrom stand quashed.

14. In the facts and circumstances, instead of imposing the costs upon the petitioners (Mohd. Yusuf, Amir Khan, Fariyad Khan and Firoz) in CRL.M.C. 6862/2024, they are directed to plant 25 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.: New Ashok Nagar.



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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. 25,000/- 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.

ANOOP KUMAR MENDIRATTA, J

SEPTEMBER 2, 2024

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