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

+ **CRL.M.C. 157/2024**

NAVEEN GUPTA & ORS.

..... Petitioner

Through: Mr. Sudarshan Rajan, Mr. J.S. Kalra
and Mr. Hitain Bajaj, Advs. with
petitioners in person

versus

THE STATE OF NCT OF DELHI & ANR.

..... Respondent

Through: Mr. Hemant Mehla, APP for State
with Insp. Amit Pratap Police Station
EOW
Mr. Vivek Chandra Jaiswal, Adv.
with Mr. Vikas Kumbat (AR) for
ESAB India Pvt. Ltd.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

08.01.2024

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CRL.M.C. 157/2024

1. The present petition has been filed under Section 482 CrPC seeking quashing of FIR No. 215/2009 under Section 63 of the Copy Right Act read with Section 103/104 of Trade Marks Act and all consequential proceedings emanating therefrom on the ground that the parties have arrived at a settlement.
2. Issue notice. The learned APP for the State accepts notice. The notice is also accepted by Mr. Vivek Chandra Jaiswal, Advocate on behalf of



respondent no. 2. The learned APP for the State submits that since the parties have arrived at a settlement, the State has no objection in case the FIR in question is quashed.

3. The petitioner no.1, 2 and 3, as well as, respondent no. 2 are present in the Court and they have been identified by their respective counsel and by the Insp. Amit Pratap Police Station EOW.

4. The FIR was registered with an allegation that petitioners were infringing the trade mark and copy right of the complainant / respondent company.

5. During the pendency of the proceedings, the petitioners as well as the respondent no. 2 have arrived at a settlement, terms whereof were reduced in writing in the form of Memorandum of Understanding / Settlement dated 10.12.2023, which is annexed as Annexure P-8 to the present petition.

6. It is recorded in the settlement that the parties have amicably settled all their disputes and have decided to terminate the ongoing litigation between them.

7. It is also a term of the settlement between the parties that the respondent no. 2 shall cooperate with the petitioners for the quashing of the present FIR.

8. The petition is also supported by an affidavit of Mr. Vikas Kumbat / Authorized Representative of the respondent no. 2 company / complainant. The Authorized Representative, who is present in Court, on a query put by the Court, states that he has no objection in case the FIR is quashed.

9. At this stage, apt would it be to refer to the observations of the Supreme Court in *Gian Singh v. State of Punjab*, (2012) 10 SCC 303: (SCC p. 340, para 58)



“58. Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor.”

10. In ***Parbatbhai Aahir vs. State of Gujarat (2017) 9 SCC 641***, the Supreme Court laid down as under:-

“...16.7. As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned.

16.8. Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

16.9. In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and”...

11. Keeping in view the above legal position and regard being had to the fact that the present FIR is an outcome of infringement of trade mark and copy right of the complainant / respondent company and dispute has been settled amicably by the parties, it is a fit case where FIR should be quashed.

12. Further, in view of the settlement between the parties, the ultimate



chances of conviction in the case are also bleak, therefore, continuation of criminal proceedings will be an exercise in futility.

13. It is, thus, in the interest of justice that the present FIR and all other proceedings emanating therefrom are quashed.

14. Consequently, the petition is allowed and the FIR No. 215/2009 under Section 63 of the Copy Right Act read with Section 103/104 of Trade Marks Act along with all other consequential proceedings emanating therefrom, is quashed.

15. The petition stands disposed of in the above terms.

16. Order be uploaded on the website of this Court.

VIKAS MAHAJAN, J

JANUARY 8, 2024

N.S. ASWAL