



2024:DHC:7125



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 17.09.2024

+ CRL.M.C. 7334/2024

NITIN KUMAR & ORS.

.....Petitioners

Through: Mr. Jaideep Rathi and Mr.Kirti Rathi,
Advocates with petitioner in person.

Versus

STATE (GOVT OF NCT DELHI) & ANR.

.....Respondents

Through: Ms.Manjeet Arya, APP for the State
with SI Amit Kumar and HC
Nagendra, P.S.: Dwarka South.
Respondent No.2 in person.

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. 27984/2024**

Exemption allowed, subject to just exceptions.

Application stands disposed of.

CRL.M.C. 7334/2024

1. Petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') has been preferred on behalf of the petitioners for quashing of FIR No. 0248/2024 under Sections 115(2)/127(1)/326(f) of Bharatiya Nyaya Sanhita, 2023 ('BNS'), registered at P.S.: Dwarka South.

2. Issue notice. Learned APP for the State along with respondent No. 2 in person appear on advance notice and accept notice.



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3. In brief, as per the case of prosecution, on 18.07.2024, there was an altercation between complainant (Sandeep Yadav) / respondent No. 2, who was proceeding on bike and petitioner No. 1 (Nitin Kumar) and petitioner No. 3 (CCL), as motorcycle of complainant touched the handle of motorcycle driven by petitioner No. 1. Both petitioner No. 1 and 3 chased the complainant, assaulted him and set motorcycle of complainant (respondent No. 2) on fire under influence of alcohol. In the meantime, petitioner No. 2 (Sahil Khan) who was also passing by is alleged to have slapped complainant.

4. Learned counsel for the petitioners submits that the alleged incident happened on spur of moment, and all the petitioners have clean past antecedents. He further submits that petitioner No.3 is a juvenile and petitioner No. 2 (Sahil Khan) had absolutely no role in the alleged incident. He urges that matter has been amicably settled between the parties in terms of MoU dated 31.08.2024 and a sum of Rs. 70,000/-, towards cost of motorcycle, has been paid to the respondent No. 2 (complainant).

5. Respondent No. 2 submits that since the matter has been amicably settled without any threat, pressure or coercion and he has also received compensation of Rs. 70,000/- towards the cost of motorcycle, he has no further grievance against the petitioners.

6. Learned APP for the State that in view of amicable settlement between the parties, she has no objection in case the FIR in question is quashed. She further informs that Petitioner No. 3 is a student of 10th Class and PIR against CCL has already been filed before the concerned Juvenile Justice Board.

7. Petitioners in the present case seek to invoke the powers under Section



528 of the Bharatiya Nagarik Suraksha Sanhita, 2023. 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 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.

9. Petitioners and respondent No. 2 are present in person and have been identified by with SI Amit Kumar, P.S.: Dwarka South. 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



submits that since all the disputes between the parties have been amicably settled, nothing remains to be further adjudicated upon and he has no objection, in case the FIR in question is quashed.

10. Parties intend to put quietus to proceedings arising out of altercation which occurred on the spur of the moment. The settlement shall promote harmony between the parties. The chances of conviction are bleak in view of 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 and respondent No. 2 has been duly compensated towards loss/damage of motorcycle, 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. Considering the facts and circumstances, FIR No. 0248/2024 under Sections 115(2)/127(1)/326(f) BNS registered at P.S.: Dwarka South and proceedings emanating therefrom are quashed.

12. In the facts and circumstances, instead of imposing the costs upon the petitioner No.1 and 2, they are directed to plant 50 saplings of Neem/Jamun trees each, which are upto 03 feet in height in the area of P.S. Dwarka South 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. Dwarka South. 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 Neem/Jamun trees, petitioner



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No. 1 and 2 shall be liable to deposit cost of Rs. 50,000/- 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.

SEPTEMBER 17, 2024/v