



2024:DHC:7849



\$~94 & 97

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

%

Date of Decision: 08.10.2024

+ CRL.M.C. 7949/2024

KAMAL KISHORE SHARMA & ANR

.....Petitioners

Through: Mr.Rakesh Talwar, Advocate with
petitioners in person.

versus

**STATE THROUGH SHO,
PS RAJOURI GARDEN & ORS.**

.....Respondents

Through: Mr.Satinder Singh Bawa, APP with SI
SI Ashwini Kumar, P.S. Rajouri
Garden.

Mr.J.D.Sharma, Advocate with
respondent No.2 to 3 in person.

+ CRL.M.C. 7969/2024

JAGJYOT SINGH & ANR

.....Petitioners

Through: Mr.J.D.Sharma, Advocate with
petitioners in person.

versus

**STATE THROUGH SHO,
PS RAJOURI GARDEN & ANR.**

.....Respondents

Through: Mr.Satinder Singh Bawa, APP with SI
SI Ashwini Kumar, P.S. Rajouri
Garden.

Mr.Rakesh Talwar, Advocate with
respondent No.2 in person.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA



2024:DHC:7849



%

J U D G M E N T**ANOOP KUMAR MENDIRATTA, J (ORAL)****CRL.M.A. 30415/2024 in CRL.M.C. 7969/2024****CRL.M.A. 30334/2024 in CRL.M.C. 7949/2024**

Exemption allowed, subject to just exceptions.

Applications stand disposed of

CRL.M.C. 7969/2024**CRL.M.C. 7949/2024**

1. (i) CRL.M.C. 7969/2024 under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') has been preferred on behalf of the petitioners for quashing of FIR No.0110/2021, under Sections 323/326/34 IPC, registered at P.S.: Rajouri Garden and proceedings emanating therefrom. Chargesheet has been filed under Sections 323/325/341/34 IPC.

(ii) CRL.M.C. 7949/2024 under Section 528 BNSS has been preferred on behalf of the petitioners for quashing of FIR No. 0324/2023 under Sections 323/509/34 IPC registered at P.S.: Rajouri Garden and proceedings emanating therefrom. Chargesheet has been filed under Sections 323/354/509/34 IPC.

2. Issue notice. Learned APP for the State and learned counsels for respondents in respective FIRs alongwith respondents in person appear on advance notice and accept notice.

3. In brief, as per the case of prosecution, FIR No.0110/2021 in CRL.M.C. 7969/2024, under Sections 323/326/34 IPC was registered against petitioners on complaint of respondent No.2 (Dinesh Sharma) who alleged that on 07.02.2021, while he was collecting *chanda* alongwith other persons for the purpose of construction of *Ram Mandir* (Temple), there was an altercation with Narinder Pal Singh (petitioner No.2) as he misbehaved with



2024:DHC:7849



the complainant. Further, Narinder Pal Singh was joined by his son Jagjot Singh (petitioner No.1) who started quarrelling with the complainant party and also misbehaved with 'PS' (wife of complainant's brother Kamal). During altercation, Jagjot Singh cut right hand finger of the complainant. Present FIR was accordingly registered.

4. FIR No. 0324/2023 in CRL.M.C. 7949/2024 under Sections 323/509/34 IPC was lodged at instance of Narinder Pal Singh against Dinesh Sharma (complainant in FIR No.0110/2021) and Kamal Kishore Sharma in respect of the aforesaid incident giving a different version. FIR was registered pursuant to directions issued by learned MM under Section 156(3) Cr.P.C. He alleged that on 07.02.2021, about 10-15 persons who came for collection of *chanda* for *Ram Mandir* started misbehaving and used filthy language. Further, Kamal Kishore Sharma and Dinesh Sharma assaulted him. His wife and son intervened to rescue him and he sustained injuries on his left hand and right eye.

5. Learned counsel for the parties submit that both the cross FIRs arise out of the same incident and the disputes have been amicably settled between the parties in terms of MoU dated 04.10.2023. It is further urged that both petitioners as well as respondents have clean past antecedents and are not involved in any other case.

6. Learned APP for the State does not dispute the factual position and submits that since the disputes have been amicably settled between the parties, he has no objection in case the FIRs in question are quashed.

7. Petitioners in the respective cases 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



2024:DHC:7849



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. Parties are present in person and have been identified by SI Ashwini Kumar, PS: Rajouri Garden. 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 submit that since all the disputes between the parties have been amicably settled, they have no objection for quashing of FIRs.



2024:DHC:7849



10. Both the petitioners and respondents, in respective cases, who reside in vicinity, intend to put quietus to the proceedings which arose over minor issue of collection of *chanda*. The settlement shall promote harmony between the parties. Also the chances of conviction are bleak in view of amicable 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, 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.0110/2021, under Sections 323/325/341/34 IPC and FIR No. 0324/2023, under Sections 323/354/509/34 IPC, both registered at P.S.: Rajouri Garden and proceedings emanating therefrom stand quashed.

12. In the facts and circumstances, instead of imposing the costs upon the petitioners, in the petitions, 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.: Rajouri Garden 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.: Rajouri Garden. 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,



2024:DHC:7849



also stand disposed of.

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

A copy of this order be kept in connected petition.

ANOOP KUMAR MENDIRATTA, J

OCTOBER 08, 2024/v