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

+ CRL.M.C. 7626/2024

SAHIL SHARMA & ANR.

.....Petitioners

Through: Mr. Amit Prasad, Mr. Bikash Mohanty, Mr. Apratim Animesh Thakur, Mr. Shashwat Prateek Panda, Mr. Lakshya Sachdeva, Mr. Aiman Zamir Mr. Yash Pratap, Ms. Ankita Rawat, Ms. Varnika Manral and Mr. Vikram Mohanty, Advs. along with petitioners.

versus

STATE OF NCT OF DELHI
THOUGH THE SHO & ANR.

.....Respondents

Through: Mr. Aman Usman, APP for State.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

30.01.2025

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1. The present petition has been filed under Section 528 BNSS, 2023 seeking quashing of FIR No.321/2017 under Sections 186/332/353/34 IPC registered at Police Station Safdarjung Enclave, South Delhi, New Delhi and all consequential proceedings emanating therefrom.
2. The facts in brief leading to the registration of aforesaid FIR, are that the petitioners are real brothers and are vocational Music performers, who perform live concerts of guitar. They had been invited to perform at a show at 'Cafe Turquoise Cottage' at Green Park, New Delhi with their band 'Cosmic Truth' on 04.08.2017. After the show, the petitioners along with their band members went for some Beer to the Bar, however, while settling their bill, some dispute arose on count of Beers i.e. 6 or 4 Beers. This led to altercation followed by *inter se* fight between the petitioners and Bar staff



including the Bouncer at the said cafe. The petitioners called the police. The following two cross-FIRs came to be registered at the instance of the present petitioners as well as Bar staff:

- (a) FIR No.319/2017 under Sections 323/341/506/34 IPC registered at P.S. Safdarjung Enclave, New Delhi at the instance of the petitioners.
- (b) FIR No.320/2017 under Sections 323/341/506/34 IPC registered at P.S. Safdarjung Enclave, New Delhi at the instance of the Bar Staff.

3. Yet another FIR i.e. the one which is subject matter of the present case came to be registered at the instance of the police personnel (respondent no.2) wherein it was alleged that the present petitioners had also misbehaved with them.

4. During the pendency of aforesaid two cross-FIRs registered at the instance of the petitioners as well as the Bar staff, the accused and complainants were referred to Mediation Centre, Saket Courts, New Delhi where they arrived at a settlement, terms whereof were reduced in writing in the form of Settlement Report dated 05.04.2024, a copy of which has been annexed as Annexure P-5 to the present petition.

5. In terms of the said settlement, the offences under the aforesaid two cross FIRs, were compounded *vide* separate orders. The offences under FIR No.320/2017 were compounded by the court of Judicial Magistrate First Class-03 *vide* order dated 05.09.2024. Likewise, the offences under FIR No.319/2017 were compounded *vide* order dated 09.04.2024 passed by the court of learned Metropolitan Magistrate-03.

6. However, the FIR which is still alive is the present FIR registered at the instance of a police official, who has been arrayed as respondent no.2 in the present petition.



7. Mr. Amit Prasad, the learned counsel appearing on behalf of the petitioners submits that the underlying two FIRs have already been compounded, therefore, the present FIR which is an offshoot of the dispute which had taken place between the petitioners and the Bar staff may also be quashed.

8. He submits that the petitioner no.2 is pursuing his Masters in Research in Prostate Cancer at Peter MacCallum Cancer Research Centre in Australia whereas the petitioner no.1 is pursuing his Masters in Fine Arts in Paris. However, on account of pendency of the criminal proceedings arising out of present FIR, the permanent residency which has been applied by the petitioner no.2, is getting delayed.

9. He submits that the petitioners are remorseful of their conduct and undertake not to repeat the same. He further submits that a complaint case has also been filed by the petitioners against the respondent no.2 and he has instructions to state that the petitioners will withdraw the same in the event the present FIR is quashed by this court. The statement is taken on record.

10. The petitioners have also joined through VC and they regret their conduct in the Bar and urges the Court to quash the FIR in question.

11. The learned APP appearing on behalf of the State, on the other hand, clarifies that the present FIR pertains to a distinct offence which has nothing to do with the two FIRs which have already been compounded. However, he adds that in case this court is inclined to quash the present FIR in the peculiar facts and circumstances of the present case, some costs should be imposed on the petitioners.

12. It appears that the incident happened at the spur of the moment. The petitioners are students and they have shown remorse for their behaviour.



The two underlying FIRs of which the present FIR is an offshoot, have already been compounded. Further, the petitioners were too young at the time of incident and have faced the agony of criminal proceedings / trial for eight long years.

13. Having regard to the aforesaid peculiar facts and circumstances this court is of the view that the present is a fit case to exercise jurisdiction under Section 528 of BNSS, 2023 to meet ends of justice.

14. Consequently, the petition is allowed and FIR No.321/2017 under Sections 186/332/353/34 IPC registered at Police Station Safdarjung Enclave, South Delhi, New Delhi alongwith all other proceedings emanating therefrom, is quashed. However, to serve the interest of justice, both the petitioners are directed to deposit an amount of Rs.25,000/- each with the Delhi Police Welfare Fund and further amount of Rs.25,000/- each with the Delhi High Court Legal Aid.

15. Needless to say, since the FIR in question i.e. FIR No.321/2017, stands quashed, it will not come in the way of the petitioners in obtaining Police Clearance Certificate (PCC) or in any other manner.

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

17. Order be uploaded on the website of this court.

18. *Dasti.*

VIKAS MAHAJAN, J

JANUARY 30, 2025

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