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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 3480/2012

PANKAJ KAUSHIK &ORS.

Through

..... Petitioners

Mr. Vishnu Sharma with Mr. Aditya
Gaur, Advocates.

Petitioners in person.

versus

STATE GOVT. OF NCT OF
DELHI & ANR.

Through

..... Respondents

Mr. Manoj Ohri, APP for State with
IO/ASI Jai Prakash, PS Burari
(North).

Mr. Sanjeev Kumar, Advocate for
R-2/Complainant.

Mr. Kishan Singh, R-2/Complainant
in person.

AND

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CRL.M.C. 3481/2012

KISHAN SINGH &ORS.

Through

..... Petitioners

Mr. Sanjeev Kumar, Advocate.
Petitioners in person.

versus

STATE GOVT. OF NCT OF DELHI
& ANR.

Through

..... Respondents

Mr. Manoj Ohri, APP for State with
IO/ASI Krishan Kumar, PS Swaroop
Nagar.

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Mr. Vishnu Sharma with Mr. Aditya
Gaur, Advocates for R-2/Complainant
Mr. Pankaj Kaushik, R-2/
Complainant in person.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

ORDER
28.09.2012

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Present two petitions have been filed under Section 482 Cr.P.C. seeking quashing of two cross FIRs on the ground that the matters have been amicably resolved between the parties. While FIR No. 271/2009 has been registered with Police Station Burari, Delhi under Sections 451/323/325/34 IPC, FIR No. 190/2011 has been registered with Police Station Swarup Nagar, Delhi under Sections 323/341/506/34 IPC.

Learned counsel for the petitioners state that at the time of framing of charge in FIR No. 271/2009, Section 392 IPC has been invoked by learned trial court.

Both learned counsel further state that the aforesaid two FIRs pertain to a dispute between neighbours who had got into a fight in the heat of the moment. They further state that both the parties have entered into a Compromise Deed dated 12th March, 2012 by virtue of which all disputes between the parties have been amicably resolved. They, accordingly, pray for quashing of the aforesaid FIRs.

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With regard to the power of High Courts to quash FIRs, a three Judges Bench of the Supreme Court in **Gian Singh Vs. State of Punjab & Another, Special Leave Petition (Crl.) No. 8989/2010 decided on 24th September, 2012** has held as under :-

“52. It needs no emphasis that exercise of inherent power by the High Court would entirely depend on the facts and circumstances of each case. It is neither permissible nor proper for the court to provide a straitjacket formula regulating the exercise of inherent powers under Section 482. No precise and inflexible guidelines can also be provided.

53. Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of a criminal court is circumscribed by the provisions contained in Section 320 and the court is guided solely and squarely thereby while, on the other hand, the formation of opinion by the High Court for quashing a criminal offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.

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57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what

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cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

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Keeping in view the aforesaid mandate of law as well as the fact that the dispute was essentially between neighbours who have now executed a Compromise Deed, this Court sees no purpose in continuing the present proceedings any further and accordingly, FIR No. 271/2009 registered with Police Station Burari, Delhi under Sections 451/323/325/392/34 IPC and FIR No. 190/2011 registered with Police Station Swarup Nagar, Delhi under Sections 323/341/506/34 IPC as well as any other consequential proceedings arising therefrom are quashed.

At this stage, learned counsel for petitioners voluntarily state that petitioners in each petition would deposit Rs.5,000/- with Delhi High Court Legal Services Committee within two weeks. The aforesaid statements are accepted by this Court.

The petitions stand disposed of in the aforesaid terms.

Order dasti.

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MANMOHAN, J

SEPTEMBER 28, 2012

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— listed on all India
Note.
— letter received
from Legal Service
Committee regarding
non deposit of cost
of Rs 5000/- in terms
of order dated 08-9-12