

\$~32

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

Date of Decision: August 07, 2015

+ **CRL.M.C. 3173/2015 & CrI.M.A.11318/2015**

SUNITA & ANR Petitioners
Through: Ms. G.C. Shukla, Advocate

versus

KUSUM DEVIRespondent
Through: Mr. Ravi Jain, Advocate

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

% **JUDGMENT**
(ORAL)

Quashing of Criminal Complaint No.8/2013 for the offences under Sections 323/379/392/411/509/34 of IPC and Sections 25/54/59 of the *Arms Act* is sought on the basis of Settlement arrived between the parties before the *Counselling Cell, Family Courts, New Delhi*.

Learned counsel for petitioners submits that the parties have settled their disputes in terms of aforesaid Settlement and now, no dispute remains between the parties and so, the proceedings arising out of FIR in question be brought to an end.

Apex Court in '*Gian Singh Vs. State of Punjab & Anr.*' (2012) 10 SCC 303, has cautioned that in cases involving serious offences, criminal proceedings arising out the FIR, is not to be quashed. The pertinent

observations made by Apex Court in *Gian Singh (supra)* are as under: -

“58. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all.”

The aforesaid dictum stands reiterated by the Apex Court in a recent judgment in *Narinder Singh v. State of Punjab* (2014) 6 SCC 466. The pertinent observations of the Apex Court in *Narinder Singh (supra)* are as under:-

“29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1 Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

(i) ends of justice, or

(ii) to prevent abuse of the process of any court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

Upon hearing and on perusal of complaint in question, I find that the offences alleged against petitioners are of serious nature which dissuades this Court to exercise its inherent extraordinary jurisdiction under Section 482 Cr.P.C..

In view of aforesaid, applying the dictum of Apex Court in *Gian Singh (supra)* and *Narinder Singh (Supra)*, this petition is dismissed while not commenting on merits lest it may prejudice petitioners at trial.

This petition and the application are accordingly dismissed.

(SUNIL GAUR)
JUDGE

AUGUST 07, 2015

S