

\$~67

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

+ **W.P.(CRL) 96/2016**

SUSMAN MOHANTY Petitioner

Through: Mr.Mohd. Farhan Khan and
Ms.Mohna M.Lal, Advocates with
petitioner No.1 in person.

versus

STATE OF NCT DELHI & ANR Respondents

Through: Mr.Rajesh Mahajan, ASC for the
State/R-1 with SI Ved Prakash, PS
CWC Nanak Pura.
Respondent No.2 in person.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

%

13.01.2016

CrI.M.A. No.623/2016 (early hearing)

1. The present application has been filed by the petitioner for early hearing of the matter.
2. Alongwith the application, amended memo of parties impleading all the accused persons named in the FIR as a party in this petition, has also been filed in compliance of order dated 12.01.2016.
3. Heard.
4. Respondent No.2/Complainant is present in person and submits that she has no objection if the prayer of the petitioner for early hearing of the matter is allowed.

W.P.(CRL) 96/2016

Page 1 of 5

5. In view of the submissions made on behalf of the parties, the prayer of the petitioner for early hearing of the matter is allowed.
6. Amended memo of parties filed by the petitioner be taken on record.
7. Application stands disposed of.

W.P.(C) No.96/2016

1. The present writ petition has been filed by the petitioner Susman Mohanty under Article 226 of Constitution of India for quashing of FIR No.143/2013, under Sections 498-A/406/34 IPC, P.S. Crime (Women) Cell, Nanak Pura, New Delhi.
2. Brief facts of the present case are that Respondent No.2 got married to petitioner Susman Mohanty on 02.12.2010 according to Hindu rites and ceremonies. It is further mentioned in the petition that due to temperamental differences, the petitioner and Respondent No.2 could not live together and started living separately with effect from 26.05.2012. The Respondent No.2 filed a criminal complaint against the petitioners and his other family members, on the basis of which FIR in question was registered. It is mentioned in the petition that during the pendency of above proceedings, the matter was referred to Mediation Centre where parties arrived at an amicable settlement.
3. It has been further stated in the petition that **the parties have settled the matter before Mediation Centre, Dwarka Court, Delhi and true copy of the said settlement dated 08.12.2014 has been placed on record as Annexure-P2.**
4. It is pertinent to note here that though the FIR in question has been registered against four accused persons namely Susman Mohanty (husband), Ranjan Rasmi Mohanty (mother-in-law), Sushmita Mangesh Samant (sister-

in-law) and Mangesh Samant (brother-in-law), the present petition seeking quashing of FIR in question has been filed by the husband only i.e. petitioner Susman Mohanty. Thereafter, the petitioner Susman Mohanty sought time to implead other accused persons named in the FIR as a party in this petition. Today amended memo of parties impleading other three accused persons named in the FIR as a party has been filed, which has been taken on record.

5. Petitioners Susman Mohanty and Ranjan Rashmi Mohanty are present in the Court today. They submit that petitioners Sushmita Mangesh Sawant and Mangesh Sawant are residents of Singapore.

6. The petitioner Susman Mohanty and respondent No.2/Complainant have also filed a joint application (handwritten) today in the Court praying that FIR in question may be quashed qua all the accused persons named in the FIR.

7. In terms of full and final settlement arrived at between the parties, learned counsel for the petitioners has handed over to respondent No.2 today in the Court a sum of Rs.9 lac vide demand draft No.246674 dated 07.01.2016, copy of which has been placed on record.

8. Respondent No.2 submits that she has settled the matter with the Petitioners before Mediation Centre, Dwarka Court and in terms of said settlement, today she has received Rs.9 lacs vide demand draft from the Petitioners. Respondent No.2 further submits that she has no objection if the FIR in question is quashed qua all the Petitioners/accused persons named in the FIR.

9. The FIR registered against the present Petitioners is for committing the offences punishable under Sections 498-A/406/34 IPC. Offence

punishable under Section 498-A IPC is a non-compoundable offence. In the decision reported as ***Gian Singh v State of Punjab & Anr. 2012 (9) SCALE 257***, the three Judges Bench of the Supreme Court dealing with the issue of quashing of FIR has observed as under:-

“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 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-dominatingly civil favour 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.”

10. In view of the legal position laid down in *Gian Singh's case* (Supra) and amicable settlement arrived at between the parties, I am of the considered view that no useful purpose would be served by continuing the criminal proceedings against the petitioners, which will only be an exercise in futile and wastage of precious time of the Court.

11. Accordingly, the petition is allowed and FIR No.143/2013, under Sections 498-A/406/34 IPC, P.S. Crime (Women) Cell, Nanak Pura, New Delhi and consequential proceedings arising therefrom are hereby quashed. The parties shall abide by the terms and conditions of the full and final settlement arrived at between the parties before Mediation Centre, Dwarka Courts, Delhi, copy of which is placed on record as Annexure-P2.

12. Date 4th February, 2016, already fixed in the matter, stands cancelled.

As prayed, copy of the order be given dasti to learned counsel for the parties.

PRATIBHA RANI, J.

JANUARY 13, 2016

‘st’

W.P.(CRL) 96/2016

Page 5 of 5