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

+ W.P.(CRL) 304/2016

RAHUL GARG & ORS

..... Petitioners

Through: Mr.K.C.Jain and Ms.Preetika
Aggarwal, Advocates with petitioner
No.1 in person.

versus

STATE (NCT OF DELHI) & ANR

..... Respondents

Through: Ms.Richa Kapoor, A.S.C. for the
State with Si Ramesh Kumar, PS Rani
Bagh.
Respondent No.2/complainant in
person with counsel. (appearance not
given)

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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29.01.2016

1. The present writ petition has been filed by the Petitioners under Article 226 of Constitution of India read with Section 482 Cr.P.C. for quashing of FIR No.138/2015, under Sections 498-A/406/34 IPC, P.S. Rani Bagh, Delhi, on the basis of settlement arrived at between the parties.

2. Briefly stating the facts of the present case are that Respondent No.2 got married to Petitioner No.1 on 24.11.2012 according to Hindu rites and ceremonies. It is mentioned in the petition that due to termperamental differences, the petitioner No.1 and Respondent No.2 could not live together and started living separately from since 27.03.2014. Thereafter, apart from

filing a divorce petition under Section 13(1)(ia) of Hindu Marriage Act, an application under Section 12 of Domestic Violence Act and a petition under Section 125 CrPC, the respondent No.2 also filed a criminal complaint against the petitioners which resulted into registration of FIR in question.

3. It is further mentioned in the petition that during the pendency of the above proceedings, the parties arrived at an amicable settlement and agreed to dissolve the marriage by decree of divorce by mutual consent. In terms of settlement, the petitioners agreed to pay Rs.24 lacs to respondent No.2 towards all her claims including past, present, future maintenance, permanent alimony and istridhan etc. In terms of settlement, a sum of Rs.16 lacs has already been received by respondent No.2. The balance sum of Rs.8 lacs has been received by respondent No.2 in Court today vide Demand Draft No.242971 dated 30.11.2015, copy of which has been placed on record.

4. Learned counsel for the petitioners submits that the petitioners and respondent No.2 have amicably resolved their dispute and respondent No.2 is not left with any claim or grievance of any nature against the petitioners. Learned counsel for the petitioners further submits that since the parties have settled their disputes amicably and the marriage between the petitioner No.1 and respondent No.2 also stands dissolved by a decree of divorce by mutual consent, no useful purpose would be served by continuance of criminal proceedings against the petitioners, hence the FIR in question be quashed.

5. Respondent No.2, who is present in the Court today, confirms the factum of amicable settlement with the petitioners. Respondent No.2 submits that in terms of settlement, today she has received ₹8 lacs from the

petitioner by way of demand draft and that she has no grievance whatsoever left against the petitioners. Respondent No.2 submits that she has no objection if the FIR in question is quashed qua the petitioners.

6. 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 in the case of **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.”

7. 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.

8. Accordingly, the petition is allowed and FIR No.138/2015, under Sections 498-A/406/34 IPC, P.S. Rani Bagh, Delhi and consequential proceedings arising therefrom are hereby quashed.

Order dasti.

PRATIBHA RANI, J.

JANUARY 29, 2016/ 'st'
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