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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CRL.M.C. 255/2016
PARVEEN ARORA

Through Petitioner
Mr J.A. Chaudhary and Mr M.K. Parvez, Advs.
alongwith petitioner in person
versus
THE STATE (NCT OF DELHI) & ANR

Through Respondent
Mr Akshai Malik, Additional Public Prosecutor
for the State alongwith SI Manju Police Station
Vijay Vihar, Delhi
Mr Sanjay Agarwal, Adv. for R2 alongwith R2
in person

CORAM:
HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER
% 04.05.2016

This is a petition under Article 226 of the Constitution read with Section 482 Cr.PC moved by the petitioner for quashing of FIR No.990/2014 registered at Police Station Vijay Vihar, Delhi under Section 377 IPC and consequent proceedings emanating therefrom on the ground that the parties have compromised the matter.

It is submitted by counsel for the petitioner that during pendency of proceedings before learned Metropolitan Magistrate (Mahila Court), Rohini Courts, Delhi the matter was referred to Mediation Centre for settlement and on 14.08.2015 a settlement agreement has been arrived at between the parties (which is annexed to the petition as pgs. 47 – 50) vide which all the disputes regarding marriage as well as the instant FIR were settled between the parties before Mediation Centre on the following terms:

- (i) A sum of Rs.2,00,000/- shall be paid by the petitioner to the complainant by way of cash / demand draft (in case of DD, the same should be in the name of complainant wife Arti) and the same shall be handed over to her at the time of recording of statement in the first motion petition which shall be filed on or before 25.08.2015.
- (ii) A sum of Rs.1,00,000/- shall be paid by the petitioner to the complainant by way of cash / demand draft (in case of DD, the same should be in the name of complainant wife Arti) and the same shall be handed over to her at the time of recording withdrawal statement in case under Section 125 Cr.PC before the Court of Ms Bimla Kumari, Ld. Judge, Family Court, Rohini Courts, Delhi on

26.09.2015.

- (iii) A sum of Rs.1,00,000/- shall be paid by the petitioner to the complainant by way of cash / demand draft (in case of DD, the same should be in the name of complainant wife Arti) and the same shall be handed over to her at the time of recording of statement in quashing / compounding of offence in FIR No.990/14 Police Station Vijay Vihar under Section 377 IPC which shall be filed by the petitioner on or before 15.11.2015 and complainant shall cooperate in all possible manner.
- (iv) A sum of Rs.1,90,000/- shall be paid by the petitioner to the complainant by way of cash / demand draft (in case of DD, the same should be in the name of complainant wife Arti) and the same shall be handed over to her at the time of recording of statement in the second motion petition after completion of the six months from the date of passing of order in the first motion petition.

It is further submitted that a sum of Rs.3,00,000/- has already been paid to the respondent no.2 and an amount of Rs.1 lac has been handed over to her today in cash today in cash and the balance amount of Rs.1,90,000/- will be paid to the complainant at the time of second motion. It is, therefore, prayed that the present FIR be quashed.

The respondent No.2/complainant, who is present in person (duly identified by the Investigating Officer of the case as well as her counsel) submits that she has amicably resolved all disputes with the petitioner voluntarily without there being any threat, coercion or pressure of any sort. She admits that she has already received an amount of Rs.3 lacs. She further submits that she has received an amount of Rs.1,00,000/- in cash from the petitioner today in the Court and the balance amount of Rs.1,90,000/- will be paid by the petitioner at the time of second motion for divorce by mutual consent. As such, it is submitted by her that she does not want any action against the petitioner and does not have any objection to quashing of the instant FIR.

Mr Akshai Malik, Additional Public Prosecutor for the State submits that in view of the settlement arrived at between the parties, he has no objection to quashing of FIR, however, since the State machinery has been set in motion on account of the acts of the petitioners, they be burdened with costs.

Needless to say, offences with which the petitioners are booked are non-compoundable. However in the case of *Gian Singh v State of Punjab & Anr. 2012 (9) Scale 257*, the three

Judges Bench of the Supreme Court dealt with the issue of quashing of FIR in non compoundable offences. Para 57 of the report is extracted hereunder:-

“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-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.”

In view of the same, since the parties have amicably resolved all the disputes, continuation of the criminal proceedings would be a futile exercise and it will be rather in the ends of justice to give quietus to such litigation.

Accordingly, the petition is allowed and the FIR No.990/2014 registered at Police Station Vijay Vihar, Delhi under Section 377 IPC and consequent proceedings emanating therefrom are hereby quashed.

The petition stands disposed of accordingly.

A copy of this order be given *dasti* to counsel for the petitioner.

SUNITA GUPTA, J

MAY 04, 2016/*rd*