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

+ **W.P.(CRL) 214/2016**

RUPESH KUMAR & ORS

..... Petitioners

Through: Petitioner Nos.1 to 5 present in person.

versus

STATE OF NCT DELHI & ANR

..... Respondents

Through: Ms.Richa Kapoor, A.S.C. for the
State with SI Shrikant/ASI Urmila PS
Chanakyapuri
Mr.Ashu Arora, Advocate for the
complainant along with
complainant/Respondent No.2 in
person.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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22.01.2016

Crl.M.A. No.1166/2016 (Exemption)

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

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1. The present writ petition has been filed by the Petitioners under Article 226 of Constitution of India for quashing of FIR No.144/2013, under Sections 498-A/406/34 IPC, P.S. Chanakyapuri, Delhi.

2. Briefly stating the facts of the present case are that Respondent No.2 got married to Petitioner No.1 on 11.11.2011 according to Hindu rites and ceremonies. It is mentioned in the petition that the Petitioner No.1 and

Respondent No.2 could not live together and started living separately with effect from 26.06.2012. After the separation, Respondent No.2 lodged a complaint with Crime Against Women Cell at Nanakpur against the Petitioners, on the basis of which FIR in question was registered. It is further mentioned in the petition that on 30.08.2013 petitioner No.1 along with other petitioners filed Bail Application Nos. 1598/2013, 1597/2013 & 1599/2013 before this Hon'ble Court. During the pendency of above proceedings, the matter was referred to Delhi High Court Mediation and Conciliation Centre.

3. It has been further stated in the petition that while granting bail to the petitioner this Hon'ble Court recorded a finding that the matter had also been settled by and between the parties for a total amount of Rs.6 lacs. It is further stated that petitioner No.1 and Respondent No.2 filed for dissolution of marriage before the learned Family Court, Saket District Courts on the basis of mutual consent and accordingly a sum of Rs.2 lacs was duly paid by petitioner No.1 to respondent No.2 on first motion. In addition, respondent No.2 accepted a payment of Rs.57,000/-by cheque against the two piece of jewelry. The copy of order of Family Court, Saket has been placed on record which is annexed as Annexure P-3. During the second motion, a sum of Rs.2 lacs was duly received by respondent No.2, copy of which is annexed as Annexure P-4.

4. In terms of full and final settlement arrived at between the parties, a demand draft of Rs.2 lacs, copy of which is annexed as P-7, had been handed over to Respondent No.2.

5. Respondent No.2 is present in person and submits that she has settled the matter with the Petitioners and in terms of said settlement, she had

received Rs.6 lacs from the Petitioners. Respondent No.2 further 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-dominantly civil favour stand on different footing for the purposes of quashing, particularly the offences arising

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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) an 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.144/2013, under Sections 498-A/406/34 IPC, P.S. Chanakyapuri, Delhi and consequential proceedings arising therefrom are hereby quashed. **However, it is directed that Parties shall abide by the terms and conditions of the full and final settlement arrived at between the parties.**

Order dasti.

PRATIBHA RANI, J.

JANUARY 22, 2016

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