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

+ W.P.(CRL) 220/2015

MAGMA HOUSING FINANCE

..... Petitioner

Through: Mr.Ajay Uppal, Advocate with
Mr.Biswaroop Tiwari, AR of the
petitioner.

versus

THE STATE (GOVT OF NCT OF DELHI) & ANR Respondents

Through: Mr.Sanjay Lau, A.S.C. for the
State/R-1 with Mr.Siddarth Sindhu,
Advocate and Inspector Arun Dev
Nehra, ATO/Amar Colony
Mr.Avtar Singh, Adv. for R-2 with
R-2 in person.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

20.01.2016

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1. The present writ petition has been filed by the petitioner praying for quashing of FIR No.1133/2014, under Sections 383/409 IPC, registered at P.S. Amar Colony, Delhi and consequential proceedings arising therefrom.
2. During the pendency of this writ petition, at the request of the parties, the matter was referred to Delhi High Court Mediation and Conciliation Centre.
3. Today it is informed by learned counsel for the parties that matter has been duly settled before the learned Mediator on 19.01.2016. Report has also been received from Delhi High Court Mediation and Conciliation Centre.
4. Sh. Biswaroop Tiwari AR of the Petitioner as well as respondent No.2 are present in person with their respective counsel. They submit that they

have resolved all their disputes before Delhi High Court Mediation and Conciliation Centre and have left with no grievance whatsoever against each other. AR of the Petitioner and respondent No.2 undertake to abide by the terms and conditions of the settlement dated 19.01.2016 and pray that FIR in question may be quashed.

5. On behalf of State/R-1, it has been submitted that since the parties have arrived at an amicable settlement before Delhi High Court Mediation and Conciliation Centre, appropriate orders may be passed by this Court.

6. The FIR registered against the present petitioner is for committing the offences punishable under Sections 383/409 IPC, which are non-compoundable offences. In the case 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-dominantly 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 before the Mediation Centre, I am of the considered view that no useful purpose would be served by continuing the criminal proceedings against the petitioner, 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.1133/2014, under Sections 383/409 IPC, registered at P.S. Amar Colony, Delhi and

consequential proceedings arising therefrom are hereby quashed. The parties shall abide by the terms and conditions of the settlement dated 19.01.2016 arrived at between the parties before Delhi High Court Mediation and Conciliation Centre, copy of which is placed on record.

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

PRATIBHA RANI, J.

JANUARY 20, 2016

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