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

+ **W.P.(CRL) 512/2016**

NEERAJ DWIVEDI

..... Petitioner

Through: Mr.Lalit Choudhary & Ms.Mehak
Kalra, Advocates

versus

THE STATE (NCT OF DELHI) & ANR

..... Respondents

Through: Mr. Rajesh Mahajan, A.S.C. for the
State with Ms.Parul Jamwal, Adv.
Mr.Rajesh Kumar, Advocate for
respondent No.2

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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17.02.2016

CRL.M.A.2768/2016

Exemption allowed, subject to all just exceptions.

Applications stand disposed of.

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1. The present writ petition has been filed by the Petitioners under Articles 226/227 of the Constitution of India read with Section 482 Cr.P.C. for quashing of FIR No.113/2013, under Sections 498-A/406 IPC, P.S. Mandir Marg, Delhi.

2. Briefly stating the facts of the present case are that Respondent No.2 got married to Petitioner No.1 on 01.12.2000 according to Hindu rites and ceremonies. As the Petitioner No.1 and Respondent No.2 could not live together since 09.06.2012 they have been living separately.

3. After the separation, Respondent No.2 filed a criminal complaint against the Petitioners, on the basis of which FIR in question was registered. It is further mentioned in the petition that during the pendency of above proceedings, the parties arrived at an amicable settlement. Copy of the

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settlement is annexed to the petition as Annexure C.

4. In terms of Memorandum of Understanding dated 20.04.2015 arrived at between the parties, Petitioner No.1 was to pay a total sum of Rs.21 lacs (Rupees twenty one lacs only) in three instalments of Rs.7,00,000/- (Rupees Seven lacs only) each to Respondent No.2 towards full and final settlement of all her claims. It is mentioned in the petition that petitioner No.1 had already paid Rs.14,00,000/- (Rupees Fourteen lac only) to Respondent No.2 in the instalments of Rs.7,00,000/- (Rupees Seven lacs only) each at the time of recording of first and second motion of Divorce.

5. Respondent No.2 is present in person and submits that she has amicably settled the matter with the Petitioners and in terms of said settlement, today she has received balance amount of Rs.7,00,000/- (Rupees Seven lacs only) by way of Demand Draft in Court in terms of Memorandum of Understanding. 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 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 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.113/2013, under Sections 498-A/406 IPC, P.S. Mandir Marg, Delhi and consequential proceedings arising therefrom are hereby quashed.

Order dasti.

PRATIBHA RANI, J.

FEBRUARY 17, 2016

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