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

+ W.P.(CRL) 743/2016

MOHD. NADEEM & ORS

..... Petitioners

Through: Mr.P.S.Bhatii, Advocate

versus

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

Through: Ms.Kamna Vohra, A.S.C. for the
State with SI Nawab Singh PS
K.Khas
Mr.A.A.Khan, Advocate for R-2

AND

+ W.P.(CRL) 744/2016

MOHD. NADEEM

..... Petitioner

Through: Mr.P.S.Bhatii, Advocate

versus

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

Through: Ms.Kamna Vohra, A.S.C. for the
State
Mr.A.A.Khan, Advocate for R-2

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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08.03.2016

CRL.M.A.4140/2016 in W.P.(CRL) 743/2016

CRL.M.A.4141/2016 in W.P.(CRL) 744/2016

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

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1. By way of these writ petitions filed under Article 226 of the Constitution of India read with Section 482 Cr.P.C., petitioners are seeking quashing of case FIR No.641/2015 under Sections 498-A/406/34 IPC &

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Section 4 of D.P.Act registered at PS Khajuri Khas and FIR No.999/2015 under Sections 356/379 IPC registered at PS Farsh Bazar on the basis of settlement.

2. Briefly stating the facts of the present case are that Respondent No.2 got married to Petitioner No.1 on 10th February, 2014 according to Muslim rites and custom and a male child was born out of the said wedlock. It is further mentioned in the petition that the Petitioner No.1 and Respondent No.2 could not live together and started living separately with effect from 10th October, 2014. After the separation, on 18th June, 2015, Respondent No.2 filed a criminal complaint against the Petitioners, on the basis of which FIR No.641/2015 under Sections 498-A/406/34 IPC & Section 4 of D.P.Act was registered at PS Khajuri Khas. Thereafter, on 19th December, 2015, respondent No.2 filed another complaint against the petitioners, on the basis of which FIR No.999/2015 under Sections 356/379 IPC was registered at PS Farsh Bazar. It is mentioned in the petition that with the intervention of the elders and respectable persons of the society, the matter has been amicably settled between the petitioners and respondent No.2 on 12th February, 2016.

3. Along with the petitions, petitioners have also placed on record copy of the Compromise Deed/Talaknama dated 12th February, 2016 as Annexure-B.

4. In terms of full and final settlement arrived at between the parties, today learned counsel for the Petitioners has handed over to Respondent No.2 a pay order for a sum of ₹ 2,00,000/-.

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, today she has received pay order for a sum of ₹ 2,00,000/- from the Petitioners.

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Respondent No.2 further submits that she has no objection if the FIRs in question are quashed qua the Petitioners.

6. The FIRs registered against the present Petitioners are for committing the offences punishable under Sections 498-A/406/34/356/379 IPC and Section 4 of Dowry Prohibition Act. Offence punishable under Sections 356/498-A IPC and Section 4 of Dowry Prohibition Act are non-compoundable offences. 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

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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 petitions are allowed and FIR No.641/2015 under Sections 498-A/406/34 IPC & Section 4 of D.P.Act registered at PS Khajuri Khas and FIR No.999/2015 under Sections 356/379 IPC registered at PS Farsh Bazar are hereby quashed. The Parties shall abide by the terms and conditions of the full and final settlement arrived at between the parties, copy of which is placed on record as Annexure-B.

Order *dasti*.


PRATIBHA RANI, J.

MARCH 08, 2016/'pg' ^D
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