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

Date of Decision: 16th March, 2016

+ **W.P.(CRL) 848/2016 and Crl. MA No. 4700/2016**

INAYAT LUHERA & ORS.

..... Petitioners

Through

Mr. Sougata Ganguly and
Mr. Rukban Tyagi, Advocates along with
petitioners

versus

STATE OF NCT OF DELHI & ANR.

..... Respondents

Through

Ms. Richa Kapoor, ASC (Crl.)
ASI Urmila, PS Chanakya Puri
Ms. Shweta Sain, Ms. Lakshana Oberoi,
Mr. Brijesh Oberoi and Mr. Ashish
Sharma, Advs. for Resp. No. 2 along
with Resp. No. 2/complainant

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J. (ORAL)

Crl. MA No. 4700/2016 (Exemption)

1. Exemptions allowed subject to all just exceptions.
2. The application stands disposed of accordingly.

W.P. (CRL.) 848/2016

1. The present is a petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (hereinafter

referred to as 'the Code') seeking quashing of FIR No. 239/2014 under Sections 377/406/498A/34 IPC registered at Police Station- Chanakya Puri, Delhi and the proceedings arising therefrom.

2. The learned counsel appearing on behalf of the petitioners states that the respondent no.2/complainant (wife) has entered into an amicable settlement of the marital dispute that led to the registration of the subject FIR and that a total settlement of Rs. 8.5 lakhs has been entered into between the parties; out of which a sum of Rs. 6 lakhs has already been received by the respondent no. 2/complaint (wife) and a decree of divorce by mutual consent dated 15th December, 2015 has already been obtained by the parties to the marriage.

3. However, in view of the serious allegations levelled by the complainant in the subject FIR as well as her statement recorded under Section 164 of the Code before the learned Magistrate on 16th January, 2015, leading to the addition of Section 377 IPC to the subject FIR, in my opinion, the subject FIR cannot be quashed, as the allegations levelled therein *prima facie* tantamount to mental depravity.

4. The above view has been arrived at in the light of the decisions of the Hon'ble Supreme Court in *Gian Singh vs. State of Punjab and Anr.* reported as (2012) 10 SCC 303 and *State of M.P. vs. Madan Lal* reported as (2015) 7 SCC 681.

5. In view of the foregoing, the present writ petition is devoid of merit and is accordingly dismissed.

MARCH 16, 2016/sd

SIDDHARTH MRIDUL, J