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

+ **W.P.(CRL) 1023/2016**

GAGAN MALHOTRA & ORS

..... Petitioners

Through: Mr.Vineet Mehta, Adv. for P-1 & P-3
Mr.Sanjay Chaudhary, Adv. for P-2

versus

STATE & ANR

..... Respondents

Through: Mr.Rajesh Mahajan, ASC for the
State with Ms.Parul Jamwal, Adv.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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30.03.2016

CRL.M.A.5331/2016

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(CRL) 1023/2016

1. The present writ petition has been filed by the Petitioners under Article 226 of Constitution of India read with Section 482 Cr.P.C. for quashing of FIR No.197/2015, under Sections 498-A/406/34 IPC registered at P.S. Patel Nagar, Delhi and proceedings emanating therefrom against the petitioners.

2. Briefly stating the facts of the present case are that Respondent No.2 was got married to Petitioner No.1 on 28th November, 2012 according to Hindu rites and ceremonies. On 27th February, 2014, one child was born

from the said wedlock. It is further mentioned in the petition that due to temperamental and other differences, the Petitioner No.1 and Respondent No.2 could not live together and started living separately with effect from 27th November, 2013. After the separation, Respondent No.2 filed a complaint against the Petitioners, on the basis of which FIR in question was registered. Thereafter, respondent No.2 also filed petitions under Section 125 Cr.P.C. and under Section 12 of the Protection of Women from Domestic Violence Act, 2005 against the petitioners. It is mentioned in the petition that during the pendency of above proceedings, the matter was referred to Mediation Centre where parties arrived at an amicable settlement.

3. It has been further stated in the petition that the parties have settled the matter before the Counseling Cell, Tis Hazari Court Delhi and copy of the said settlement dated 30th May, 2015 has been placed on record as Annexure-P2.

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 demand draft for a sum of rupees two lakhs.

5. Respondent No.2 is present in person and submits that she has settled the matter with the Petitioners before Counseling Cell, Tis Hazari Courts, Delhi and in terms of said settlement, today she has received a Demand Draft for a sum of ₹ 2 lakhs 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 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.197/2015, under Sections 498-A/406/34 IPC registered at P.S. Patel Nagar, Delhi and consequential proceedings arising therefrom are hereby quashed. The parties shall abide by the terms and conditions of the full and final settlement arrived at between the parties before Counseling Cell, Tis Hazari Court, copy of which is placed on record as Annexure-P2.

Order dasti.

PRATIBHA RANI, J.

MARCH 30, 2016

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