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

+ **W.P.(CRL) 1282/2016**

MOHD. RAIS KHAN & ORS

..... Petitioners

Through: Mr.M.S.Khan and Mr.Iqrar Ali
Khan, Advocates.

versus

THE STATE (NCT OF DELHI) & ANR

..... Respondents

Through: Ms.Richa Kapoor, A.S.C. with
Ms.Mallika Parmar, Advocate for the
State with SI Varun PS Jamia Nagar

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **27.05.2016**

1. The present writ petition has been filed by the Petitioners under Article 226 of Constitution of India for quashing of FIR No.178/2014, under Sections 498-A/420 IPC, P.S. Jamia Nagar, Delhi.

2. Brief facts leading to filing of this petition are that marriage between petitioner No.1 and respondent No.2/complainant was solemnized on 22.11.2007 according to Muslim rites and ceremonies. It is stated in the petition that after the marriage the parties lived together as husband and wife. But due to differences they could not live together and started living separately. A male child was born out of the said wedlock. Thereafter, the respondent No.2 lodged a complaint, on the basis of which present FIR was registered against the petitioners.

3. It is stated that during the pendency of proceedings, with the intervention of respectable persons of the society, elders, well wishers and family members the parties have amicably arrived at a settlement. It is also

stated in the petition that by using his sheriat rights petitioner No.1 pronounced divorce to the respondent No.2 and the same has been accepted by the respondent No.2. Copy of the Divorce Deed is annexed to the petition as Annexure P-2.

4. In terms of full and final settlement arrived at between the parties, minor male child shall remain in the care, custody and guardianship of Petitioner No.1.

5. Respondent No.2 is present in person and submits that she has settled the matter with the Petitioners. Respondent No.2 further submits that she has no objection if the FIR in question is quashed qua Petitioners.

6. The FIR registered against the present Petitioners is for committing the offences punishable under Sections 498-A/420 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

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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. Learned counsel for the petitioners and complainant submit that after the matter in dispute has been amicably settled between the parties, no purpose would be served in prosecuting the petitioners, therefore the FIR in question and criminal proceedings emanating therefrom may be quashed.

8. 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.

9. Accordingly, the petition is allowed and FIR No.178/2014, under Sections 498-A/420 IPC, P.S. Jamia 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, copy of which is placed on record as Annexure P-2.

Order dasti.

PRATIBHA RANI, J.

MAY 27, 2016

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