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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(CRL) 1268/2016
UMAKANT VOHRA & ORS

Through Mr Arun Kumar Rathi, Adv. Petitioners
petitioners in person alongwith

versus

THE STATE (GOVT OF NCT OF DELHI) & ANR

Through Mr Aditya Swaroop Agarwal, Adv. Respondents
Rahul Mehra, SC for State alongwith Sub
Inspector Asha Police Station CWC, Delhi
Mr Suresh Kumar, Adv. for R2 alongwith R2 in
person

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

% 26.04.2016

Crl. MA 6649/2016 (exemption)

Exemption allowed subject to all just exceptions.

The application stands disposed of.

W.P. (Crl.) 1268/2016

This is a petition under Article 226 of the Constitution read with Section 482 Cr.PC moved by the petitioners for quashing of FIR No.11/2014 registered at Police Station CWC, District Crime (Women) Cell, New Delhi under Sections 406/498A/376/34 IPC and consequent proceedings emanating therefrom on the ground that the parties have compromised the matter.

It is submitted by counsel for the petitioners that basically it is a matrimonial dispute. During the hearing of bail application of the petitioner no.1, the matter was referred to Mediation Centre, Dwarka Courts, New Delhi where both the parties amicably resolved all their disputes and entered into a settlement dated 09.09.2014, which is annexed to the petition at pgs. 34 to 36, according to which all the disputes between the parties were settled for a total sum of Rs.20 lacs which was to be paid as per the following schedule:

- (i) First instalment of Rs.5,00,000/- shall be paid at the time of disposal of bail application on the date fixed i.e. 17.09.2014;
- (ii) Second instalment of Rs.5,00,000/- shall be paid at the time of recording of statement of complainant / wife during first motion petition for divorce by mutual consent under Section 13-B(1) of the Hindu Marriage Act, 1955, which shall be filed after 29.12.2014 and before 15.01.2015;

- (iii) Third instalment of Rs.5,00,000/- shall be paid at the time of recording of statement during second motion petition for divorce by mutual consent under Section 13-B(2) of the Hindu Marriage Act, 1955, which shall be filed within one month after expiry of minimum statutory period after first motion u/s. 13-B(1) of the Hindu Marriage Act, 1955, as per law.
- (iv) Fourth / last instalment of Rs.5,00,000/- shall be paid at the time of recording of statement of complainant / wife in proceedings for quashing of FIR No.11/14, U/s 498A/34 IPC Police Station CAW Cell, Nanakpura, New Delhi, before the Hon'bel High Court of Delhi.

Pursuant thereto, a total sum of Rs.15 lacs stands already paid to the complainant at the time of disposal of bail application as well as when the marriage was dissolved by the decree of divorce by mutual consent. The petitioners have brought the draft of the balance amount of Rs.5 lacs to be paid to the complainant, as such the FIR be quashed.

The respondent No.2/complainant, who is present in person (duly identified by the Investigating Officer of the case as well as her counsel) submits that she has amicably resolved all disputes with the petitioner voluntarily without there being any threat, coercion or pressure of any sort and in view of the settlement arrived at between the parties. She further submits that she has received the draft / bankers cheque of Rs.5 lacs from the petitioners today in the Court. As such, it is submitted by her that she does not want any action against the petitioner and does not have any objection to quashing of the instant FIR.

Mr Aditya Swaroop Agarwal, Adv. who appears on advance notice for Mr Rahul Mehra, SC for State submits that in view of the settlement arrived at between the parties, he has no objection to quashing of FIR, however, since the State machinery has been set in motion on account of the acts of the petitioners, they be burdened with costs.

Needless to say, offences with which the petitioners are booked are non-compoundable. However in the case of *Gian Singh v State of Punjab & Anr. 2012 (9) Scale 257*, the three Judges Bench of the Supreme Court dealt with the issue of quashing of FIR in non compoundable offences. Para 57 of the report is extracted hereunder:-

“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 flavour 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.”

In view of the same, since it is a matrimonial dispute which the parties have amicably resolved, continuation of the criminal proceedings would be a futile exercise and it will be rather in the ends of justice to give quietus to such litigation.

Accordingly, the petition is allowed and the FIR No.11/2014 registered at Police Station CWC, District Crime (Women) Cell, New Delhi under Sections 406/498A/376/34 IPC and consequent proceedings emanating therefrom are hereby quashed subject to payment of Rs.50,000/- as costs which be paid by the petitioners to the complainant/ respondent no.2 by way of demand draft within two weeks from today. Copy of demand draft be placed on record.

The petition stands disposed of accordingly.

A copy of this order be given *dasti* to counsel for the petitioners.

SUNITA GUPTA, J

APRIL 26, 2016/*rd*