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

+ **W.P.(CRL) 1246/2016**

MANOJ KUMAR & ORS

..... Petitioners

Through: Mr.Dilip K.Santosh and
Mr.V.P.Masih, Advocates.

versus

THE STATE GOVT OF NCT OF DELHI & ANR Respondents

Through: Mr.R.S.Kundu, A.S.C. for the
State/R-1 with SI Kuldeep, PS
Bhalswa Dairy.
Respondent No.2 in person.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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25.04.2016

Crl.M.A. No.6545/2016

1. Exemption allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(CRL) 1246/2016

1. By way of present petition filed under Article 226 of the Constitution of India read with Section 482 Cr.P.C., the petitioners seek quashing of FIR bearing No.345/2013 under Sections 498-A/406/34 IPC, P.S. Bhalswa Dairy, Delhi and all the proceedings arising therefrom.
2. Brief facts leading to filing of this petition are that respondent No.2 was married to the petitioner No.1 on 27.10.2012 according to Christian rites and customs. One child namely Master Simon was born out of the said

wedlock on 13.08.2013.

3. It is stated in the petition that due to temperamental differences, petitioner No.1 and respondent No.2 could not live together and started living separately since 24.01.2013. Thereafter, the respondent No.2 filed a criminal complaint against the petitioners which resulted into registration of FIR in question. It is further stated in the petition that during the pendency of the proceedings, the parties arrived at an amicable settlement and agreed to dissolve the marriage by decree of divorce. They moved a joint application before the Court of Principal Judge, Family Court, Rohini, Delhi and their statement regarding amicable settlement on 16.02.2016, copy of which is placed on record at pages 70 to 72.

4. Counsel for the petitioners submits that the parties have settled the dispute amicably and in term of settlement, the petitioners have already paid a sum of ₹3 lacs to the respondent No.2. Learned counsel for the petitioners further submits that since the parties have settled their disputes amicably and the marriage between the parties also stands dissolved (copy of decreesheet is placed on record at page No.73), no useful purpose would be served by continuance of criminal proceedings against the petitioners. Learned counsel thus prays for quashing of the FIR and all subsequent proceedings arising out of said FIR qua the petitioners.

5. Respondent No.2 is present in Court today and confirms the factum of amicable settlement with the petitioners. Respondent No.2 submits that in terms of settlement, today she has received the last installment of ₹75,000/- in cash from the petitioners outside the Court. She further submits that she has no grievance whatsoever left against the petitioners and FIR in question may be 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 bearing No.345/2013 under Sections 498-A/406/34 IPC, P.S. Bhalswa Dairy, 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.

Order dasti.

PRATIBHA RANI, J.

APRIL 25, 2016

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