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

+ **W.P.(CRL) 1492/2016**

RAHUL SHARMA & ORS Petitioners

Through: Mr.Nitin Sharma, Advocate with
petitioners in person.

versus

THE STATE (GOVT OF NCT OF DELHI) & ANR Respondents

Through: Mr.Ashish Aggarwal, A.S.C. for the
State/R-1.
Respondent No.2 in person.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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11.05.2016

Crl.M.A. No.7746/2016

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

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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.580/2015 under Sections 313/323 IPC, P.S. Dabri, Delhi and all the proceedings arising therefrom.
2. Brief facts leading to filing of this petition are that marriage between petitioner No.1 and respondent No.2/complainant was solemnized on 08.12.2014 at Delhi according to Hindu rites and ceremonies. However, due to some differences, respondent No.2 lodged a criminal complaint against

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the petitioners which resulted into registration of FIR in question.

3. It is also stated that during the pendency of proceedings, the matter was referred to the Mediation and Conciliation Centre, Delhi High Court, Delhi where both the parties settled their disputes vide settlement dated 27.07.2015. Copy of the aforesaid settlement arrived at between the parties before the Mediation and Conciliation Centre, Delhi High Court, Delhi is also annexed with the petition as Annexure-D.

4. Learned counsel for the petitioners submits that it is matrimonial dispute and parties have amicably resolved their dispute and after the amicable settlement, the petitioner No.1-husband and respondent No.2-wife started living together peacefully. Learned counsel for the petitioners submits that since the parties have settled the dispute and now the petitioner No.1 and respondent No.2 are living happily as husband and wife, 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 she also confirms the factum of amicable settlement with the petitioners. She submits that she is living happily with her husband at her matrimonial home and she has no grievance left against the petitioners. She further submits that she has no objection if the FIR in question and all subsequent proceedings arising out of the same are quashed.

6. Perusal of the record reveals that though as per the settlement arrived at between the parties before Delhi High Court Mediation and Conciliation Centre, copy of which is placed on record as Annexure-D, the parties agreed to dissolve the marriage with mutual consent. However, later on the

petitioner No.1 and respondent No.2 decided to live together and also made statement to this effect before the Court of learned Metropolitan Magistrate on 20.08.2015, certified copy of which has been placed on record.

7. The FIR registered against the present Petitioners is for committing the offences punishable under Sections 313/323 IPC. Offence punishable under Section 313 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.”

8. In view of the legal position laid down in *Gian Singh's case* (Supra) and the fact that after the settlement the parties are living together happily, I am of the considered view that no useful purpose would be served by continuing with the FIR/criminal proceedings against the petitioners, which will only be an exercise in futility and wastage of precious time of the Court.

9. Accordingly, the petition is allowed and bearing No.580/2015 under Sections 313/323 IPC, P.S. Dabri, Delhi and all the proceedings arising therefrom are hereby quashed, leaving the parties to bear their own costs.

Order *dasti*.

PRATIBHA RANI, J.

MAY 11, 2016

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