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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 1702/2016

SHIVAM MALHOTRA & ORS.

..... Petitioner

Through

Mr. Pradeep Khatri, Advocate

versus

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

..... Respondent

Through

Mr. Akshai Malik along with SI Afzal

Ahmed, PS Maurya Enclave

Mr. Maninder Jeet Singh, Advocate for R-2/
complainant

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

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18.05.2016

This is a petition under Section 482 Cr.P.C. moved by the petitioners for quashing of FIR No.288/2011 u/s 498A/406 registered at Police Station Maurya Enclave, Delhi 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. The marriage between petitioner no.1 and respondent no.2 was solemnized according to Hindu rites and ceremonies on 17.02.2010. After the marriage the petitioner No. 1 and respondent No. 2 lived and cohabited together as husband and wife and out of the said wedlock one female child namely Jasmine was born on 28th February, 2011. There is irretrievable break down of the marriage due to incompatible behaviour, conduct and temperament of the petitioner No. 1 and respondent No. 2. Accordingly, the petitioner No. 1 and respondent No. 2 have been living separately since 27th September, 2010 and have not been able to live together or cohabited since then. A complaint was filed in CAW Cell

against the petitioners by respondent No.2 pursuant to which present FIR 288/2011 u/s 498A/406, Police Station Maurya Enclave, Delhi was registered against the petitioners. Charge sheet was filed before the learned Trial Court. Due to intervention of elders in the family, the parties have settled their disputes amicably out of court vide MOU dated 5th October, 2015. In terms of MOU, respondent No.2 has settled all her claims for a total full and final payment of Rs.52,00,000/- (Rupees fifty two lacs only). According to the MOU, Rs.20,00,000/- have already been paid vide DD at the time of recording of statement of the first motion petition. Another sum of Rs.20,00,000/- has already been paid vide DD at the time of recording of the statement of the second motion petition. Remaining balance amount of Rs.12,00,000/- was agreed to be paid vide DD at the time of quashing of the present FIR. Today, a DD of Rs.12,00,000/- has been handed over to the complainant in the Court. It is, therefore, prayed that instant FIR be quashed.

The respondent No.2/complainant, who is present in person (duly identified by the Investigating Officer of the case) submits that she has amicably resolved all the disputes with the petitioners voluntarily without there being any threat, coercion or pressure of any sort. She further submits that she has received the total settlement amount of Rs.52,00,000/- towards all her claims. As such, it is submitted by her that she does not want any action against the petitioners and has no objection to quashing the instant FIR.

Mr. Mr.Akshai Malik, Additional Public Prosecutor for the State submits that in view of the settlement arrived at between the parties, he has no objection to quashing of FIR.

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.288/2011 u/s 498A/406 registered at Police Station Maurya Enclave, Delhi and consequent proceedings emanating therefrom are hereby quashed.

The petition stands disposed of accordingly.

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

SUNITA GUPTA, J

MAY 18, 2016

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