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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CRL.M.C. 1890/2016
DEVENDER KUMAR & ORS.

..... Petitioner
Through Mr Manjit Singh and Mr Kapil Kaushik, Advs.
alongwith petitioners in person

versus

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

..... Respondent
Through Mr Ashok Kumar Garg, Additional Public
Prosecutor for the State alongwith Sub Inspector
Begraj Police Station CAW Cell, South District,
Delhi
Mr Vinod Sehrawat, Adv. for R2 alongwith R2
in person

CORAM:
HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

% 17.05.2016

Crl. MA 8064/2016 (exemption)

Exemption allowed subject to all just exceptions.

The application stands disposed of.

Crl. MC 1890/2016

This is a petition under S. 482 Cr.PC moved by the petitioners for quashing of FIR No.175/2010 registered at Police Station CWC, Nanakpura, New Delhi under Ss 406/498A/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. The marriage between the petitioner no.1 and the respondent no.2 was solemnized according to Hindu rites and ceremonies on 15.02.2008. A son was born on 26.11.2008 out of the wedlock. The respondent no.2 left her matrimonial house and started residing with her parents and while residing at her parental home, the respondent no.2 filed a petition under S. 125 Cr.PC in the Family Court and pursuant thereto an execution application was filed against the petitioner no.1. The respondent no.2 has also filed a petition under S. 12 of the Protection of Women from Domestic Violence Act in the Court of learned Metropolitan Magistrate, Dwarka Courts, New Delhi. The respondent no.2 has also lodged a complaint against the petitioner no.1 and his family members (petitioner nos. 2 and 3 herein) in CAW Cell pursuant to and on the basis of which the instant FIR was lodged. Both the parties with the assistance of Mediator arrived at a mutual and

amicable settlement on 16.05.2014 (which is annexed to the petition at pgs. 28 – 31). The petitioner no.1 has already paid a sum of Rs.1 lac out of total agreed amount of Rs.4 lacs on 14.07.2014. A further sum of Rs.50,000/- was paid to the respondent no.2 on 21.08.2014 whereafter the respondent no.2 has withdrawn her execution application pursuant to proceedings under S.125 Cr.PC from the Family Court, Dwarka, New Delhi. On 02.12.2014, the respondent no.2 has also withdrawn her petition under S. 12 of the Protection of Women from Domestic Violence Act. On 12.10.2015, the petitioner no.1 paid a further sum of Rs.1,50,000/- to the respondent no.2 whereafter the marriage between the petitioner no.1 and the respondent no.2 was dissolved by the Court of learned Family Judge, Family Court, Dwarka, New Delhi. In total, the petitioner no.1 has already paid a sum of Rs.3 lacs to the respondent no.2 and the balance amount of Rs.1 lac has been paid today to the respondent no.2 by the petitioner in cash. It is therefore prayed that the instant 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 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.4 lacs from the petitioner. As such, it is submitted by her that she does not want any action against the petitioner and has no objection to quashing the instant FIR.

Mr Ashok Kumar Garg, 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, 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.175/2010 registered at Police Station CWC, Nanakpura, New Delhi under Ss 406/498A/34 IPC 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 17, 2016/*rd*