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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CRL.M.C. 1889/2016
NITIN MITTAL & ANR

Through Mr Vinay Kumar Khapra and Mr B.N. Gaur, Petitioner
Advts. alongwith petitioners in person

versus
STATE OF NCT DELHI & ORS

Through Mr Mukesh Kumar, Additional Public Respondent
Prosecutor for the State alongwith Sub Inspector
Devender Kumar Police Station Mahendra Park,
Delhi
R3 in person

CORAM:
HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER
17.05.2016

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Crl. MA 8063/2016 (exemption)

Exemption allowed subject to all just exceptions.

The application stands disposed of.

Crl. MC 1889/2016

This is a petition under S. 482 Cr.PC moved by the petitioners for quashing of FIR No.66/2014 registered at Police Station Mahendra Park, 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 27.04.2008. From the very beginning of marriage, there was lack of mutual understanding between the parties. The parents and family members of both the parties tried their best to save the marriage but in vain. On account of temperamental differences, the marriage has broken irretrievably. The respondent no.3 filed a complaint against the petitioners on the basis of which the instant FIR was registered. Due to intervention of the friends and relatives both parties have entered into a compromise in order to save the parties from further harassment, mental agony, unfold sufferings and accordingly the parties decided to end their marriage as well as the litigations. As per the settlement, both parties have settled their claims, past, present and further maintenance and permanent alimony including dowry articles, istridhan and misc. expenditure incurred at the time of marriage for a total sum of Rs.4,90,000/- which be

paid by the petitioner no.1 to the respondent no.3 on account of full and final settlement of all her claims. In terms of settlement both parties have already withdrawn all cases filed by them against each other. The petitioner no.1 and the respondent no.3 have already granted divorce by mutual consent under S. 13(B) of Hindu Marriage Act by learned Judge, Family Court, Rohini, Delhi vide order dated 10.11.2015, copy of which is annexed to the petition at pgs. 43 – 46. It is further submitted that out of total sum of Rs.4,90,000/-, Rs. 3 lacs has already been paid and the remaining amount of Rs.1,90,000/- in cash has been paid today in the Court to the respondent no.3. It is thus 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 already received a sum of Rs. 3 lacs out of the total settlement amount of Rs.4,90,000 from the petitioner and the balance amount of Rs.1,90,000/- has been paid to her in cash by the petitioners. As such, it is submitted by her that she does not want any action against the petitioners and has no objection to quashing of the instant FIR.

Mr Mukesh Kumar, 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.66/2014 registered at Police Station Mahendra Park, 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*