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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CRL.M.C. 1863/2016
SARTAJ KHAN

Through Mr M.A Khan, Adv. alongwith petitioner in
person

..... Petitioner

versus

STATE (NCT OF DELHI) & ANR

Through Mr Arun Kumar Sharma, Addl. Public
Prosecutor for the State alongwith Sub Inspector
Manoj Kumar Police Station Nand Nagri, Delhi
R2 in person

..... Respondent

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

% 13.05.2016

Crl. MA 7895/2016 (exemption)

Exemption allowed subject to all just exceptions.

The application stands disposed of.

Crl. MC 1863/2016

This is a petition under S. 482 Cr.PC moved by the petitioner for quashing of FIR No.542/2011 registered at Police Station Nand Nagri Delhi under Ss. 406/498A/34 IPC and S.4 of Dowry Prohibition Act 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 of the petitioner and the respondent no.2 has been solemnized in accordance with Muslims rites and customs on 28.11.2010 at the residence of father of the respondent no.2. Due to some temperamental differences the petitioner and the respondent no.2 could not adjust with each other. Due to some disturbances and misunderstanding, the respondent no.2 lodged a complaint with police alleging cruelty against the petitioner which resulted in registration of instant FIR. The petitioner and the respondent no.2 permanently separated from each other by way of *Talaak* and both of them remarried and since then they are residing along with their respective spouses. During the trial of instant FIR, both parties showed their intent to settle the dispute and therefore the case was referred to Mediation Centre, Karkardooma Courts, Delhi and both the parties agreed to settle all their matrimonial disputes with regard to instant case amicably and voluntarily on terms and conditions set out in order dated 11.04.2016 passed in mediation centre. The copy of order dated 11.04.2016 is annexed to the present petition at pgs. 14 - 17.

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 disputes with the petitioner voluntarily without there being any threat, coercion or pressure of any sort. She further states that after Talak, she remarried about three years ago. As such, she does not want any action against the petitioner and has no objection to quashing of the instant FIR.

Mr Arun Kumar Sharma, Addl. Public Prosecutor for the State for 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.542/2011 registered at Police Station Nand Nagri Delhi under Ss. 406/498A//34 IPC and S.4 of Dowry Prohibition Act and consequent proceedings emanating therefrom are hereby quashed subject to payment of Rs.50,000/- as compensation to be paid by the petitioner to the complainant/ respondent no.2 by way of demand draft within two weeks from today. Copy of demand draft be placed on record.

The petition stands disposed of accordingly.

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

SUNITA GUPTA, J

MAY 13, 2016/*rd*