

\$~70

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

+ **W.P.(CRL) 1683/2016**

GAGANJIT SINGH JAGGI & ORS

..... Petitioners

Through: Mr.Harkishan Singh and Mr.Sanjiv
Kumar Pabbi, Advocates with
Petitioner No.1, 3 to 6.

versus

STATE & ANR

..... Respondents

Through: Mr.Ashish Aggarwal, A.S.C. for the
State/R-1.
Mr.Balendu Shekhar & Mr.Vivek
Jaiswal, Advocates for R-2 with R-2
in person.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

%

27.05.2016

Crl.M.A. No.8828/2016

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

W.P.(CRL) 1683/2016

1. By way of present writ petition filed under Articles 226/227 of the Constitution of India read with Section 482 CrPC, the petitioners seek quashing of FIR bearing No.67/2015 under Sections 498-A/406/34 IPC, PS CAW Cell Nanak Pura, Delhi and all the proceedings arising therefrom, on the basis of settlement arrived at between the parties.

2. Notice. Learned ASC for the State/R-1 and learned counsel for the

W.P.(CRL) 1683/2016

Page 1 of 5

respondent No.2 accept notice.

3. Brief facts leading to filing of this petition are that respondent No.2 was married to the petitioner No.1 on 16.10.2010 according to Hindu rites and ceremonies.

4. It is stated that due to certain differences, the petitioner No.1 and respondent No.2 could not live together and started living separately since 09.02.2014. Thereafter, the respondent No.2 filed a complaint against the petitioners which resulted into registration of FIR in question. It is further stated in the petition that during the pendency of the proceedings, the parties arrived at an amicable settlement vide MOU dated 10.08.2015 (copy placed on record as Annexure-B) and agreed to dissolve the marriage by decree of divorce by mutual consent. In terms of the said settlement, the petitioners agreed to pay a sum of Rs.3.30 crores (Rupees Three Crores and Thirty Lacs only) to the respondent No.2 towards full and final settlement. In terms of settlement, a sum of Rs.2.80 cores has already been paid to respondent No.2.

5. Today the balance settled amount of ₹50 lacs has been paid by the petitioners to the respondent No.2 vide demand draft, which has been received by respondent No.2.

6. Learned counsel for the petitioners submits that today petitioner No.2 is not present as she is bed ridden and her personal appearance may be exempted.

7. Learned counsel for the petitioners further submits that the parties have resolved the dispute amicably and petitioners have also paid the settled amount of ₹3.30 crores to the respondent No.2. Learned counsel for the petitioners further submits that in view of the settlement, since the marriage

between the petitioner No.1 and respondent No.2 also stands dissolved by a decree of divorce by mutual consent (copy of decreesheet has been placed on record) and respondent No.2 is not left with any grievance whatsoever against the petitioners, 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.

8. Respondent No.2 is present in Court today. She also confirms the factum of amicable settlement with the petitioners. Respondent No.2 submits that today she has received the balance settled amount of ₹50 lacs from the petitioners. She further submits that she has no objection if the FIR in question is quashed qua the petitioners.

9. The FIR registered against the present Petitioners is for committing the offences punishable under Sections 498-A/406/34 IPC. Offence punishable under Section 498-A 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.”

10. In view of the legal position laid down in *Gian Singh's case* (Supra) and amicable settlement arrived at between the parties, I am of the considered view that no useful purpose would be served by continuing the

criminal proceedings against the petitioners, which will only be an exercise in futile and wastage of precious time of the Court.

11. Accordingly, the petition is allowed and FIR bearing No.67/2015 under Sections 498-A/406/34 IPC, PS CAW Cell Nanak Pura, Delhi and consequential proceedings arising therefrom are hereby quashed. The parties shall abide by the terms and conditions of the MOU dated 10.08.2015, copy of which has been placed on record as Annexure-B.

Order dasti.

Crl.M.A. No.8829/2016 (Stay)

Dismissed as infructuous.

PRATIBHA RANI, J.

MAY 27, 2016

'pg'