

\$~67

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

+ **W.P.(CRL) 1680/2016**

AMIT SHARMA

..... Petitioner

Through: Ms.Gayatri Nandwani, Advocate with
petitioners in person.

versus

STATE (NCT OF DELHI) & ANR

..... Respondents

Through: Ms.Kamna Vohra, A.S.C. for the
State/R-1.
Mr.Inderjeet Singh, Advocate for R-2
with R-2 in person.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

%

27.05.2016

Crl.M.A. No.8804/2016

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

W.P.(CRL) 1680/2016

1. By way of present writ petition filed under Article 226 of the Constitution of India read with Section 482 CrPC, the petitioner seeks quashing of FIR bearing No.2557/2014 under Sections 498-A/406/34 IPC, PS Shakar Pur, 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) 1680/2016

Page 1 of 5

respondent No.2 accepts notice.

3. Brief facts leading to filing of this petition are that respondent No.2 got married to the petitioner on 18.10.2011 according to Hindu rites and ceremonies. One male child namely Master Kandarp Sharma @ Kartik was born on 04.02.2012 out of the said wedlock.

4. It is stated that due to some martial disputes, the petitioner and respondent No.2 could not live together and started living separately since 14.07.2012. Thereafter, the respondent No.2 filed a complaint against the petitioner 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 settlement deed dated 02.09.2015 (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 petitioner agreed to pay a sum of Rs.55 lacs (Rupees Fifty Five Lacs only) to the respondent No.2 towards full and final settlement. In terms of settlement, a sum of ₹ 35 lacs has already been paid to respondent No.2.

5. Today the balance settled amount of ₹ 20 lacs has been paid by the petitioner to the respondent No.2 vide DD No.202099 dated 30.05.2016 drawn on ICICI Bank, which has been received by respondent No.2. Copy of the demand draft has been placed on record.

6. Learned counsel for the petitioner submits that the parties have resolved the dispute amicably and petitioner has also paid the settled amount of ₹ 55 lacs to the respondent No.2. Learned counsel for the petitioners further submits that in view of the settlement, since the marriage between the petitioner and respondent No.2 also stands dissolved by a decree of divorce by mutual consent and respondent No.2 is not left with any

grievance whatsoever against the petitioner, no useful purpose would be served by continuance of criminal proceedings against the petitioner. Learned counsel thus prays for quashing of the FIR and all subsequent proceedings arising out of said FIR qua the petitioner.

7. Respondent No.2 is present in Court today. She also confirms the factum of amicable settlement with the petitioner. Respondent No.2 submits that today she has received the balance settled amount of ₹ 20 lacs from the petitioners vide demand draft. She further submits that she has no objection if the FIR in question is quashed qua the petitioner.

8. The FIR registered against the present Petitioner 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.”

9. 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.

10. Accordingly, the petition is allowed and FIR bearing No.2557/2014

under Sections 498-A/406/34 IPC, PS Shakar Pur, Delhi and consequential proceedings arising therefrom are hereby quashed. The parties shall abide by the terms and conditions of the settlement deed dated 02.09.2015, copy of which has been placed on record as Annexure-B.

Order dasti.

PRATIBHA RANI, J.

MAY 27, 2016
'pg'