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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CRL.M.C. 2241/2016
VAGEESH TALWAR & ORS

Through Petitioner
Mr Shri Krishan, Mr Neeraj, Advs. alongwith all
petitioners in person except petitioner no.2
versus
NCT OF DELHI & ANR

Through Respondent
Ms Neelam Sharma, Additional Public
Prosecutor for the State alongwith WASI
Krishna Police Station Tilak Nagar, Delhi
Mr Brij Bhushan Solanki, Adv. for R2
alongwith R2 in person

CORAM:
HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER
02.06.2016

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Crl. MA 9421 – 9422/2016 (exemption)

Exemption allowed subject to all just exceptions.

The applications stand disposed of.

Crl. MC 2241/2016

This is a petition under S. 482 Cr.PC moved by the petitioners for quashing of FIR No.569/2015 registered at Police Station Tilak Nagar, 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 05.11.2009. Since 10.11.2013, both the petitioner no.1 and the respondent no.2 started living separately on account of matrimonial disputes, discord, disharmony and temperamental differences and they have not been able to live together since then. In May, 2014 the petitioner no.1 filed a petition under S.12(1)(b) of HMA or in the alternative for divorce under S.13(1)(ia) and 13(1)(iii) HMA. On 27.11.2014, the respondent no.2 filed a complaint before CAW Cell, Kirti Nagar, New Delhi against the petitioners which led to registration of instant FIR. In March, 2015 petition under S. 12 of Domestic Violence Act was filed by the respondent no.2 against the petitioners. On 10.07.2015 an amicable settlement was arrived at between the parties at Mediation Centre, Tis Hazari Courts, Delhi. All the dowry articles and jewellery as per Annexure –A and B to the settlement agreement were handed over

by the petitioner no.1 to the respondent no.2. A decree of divorce was passed by learned Principal Judge, Delhi by which the marriage was dissolved by a decree of divorce by mutual consent on 04.05.2016. Out of total settlement amount of Rs.7 lacs, Rs.3.50 lacs have already been paid to the respondent no.2 and the balance amount of Rs.3.5 lacs has been paid today to the respondent no.2 in the Court by way of demand draft, copy of which has been placed on record. It is, therefore, prayed that the instant FIR be quashed.

It is further submitted that the petitioner no.2 could not come today being seriously ill and a medical certificate to this effect has been placed on record which shows that he is suffering from prostate cancer and bone metastasis.

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 istridhan articles and the total settlement amount of Rs.7 lacs from the petitioners. 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.

Ms Neelam Sharma, Additional Public Prosecutor for the State submits that in view of the settlement arrived at between the parties, she 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.569/2015 registered at Police Station

Tilak Nagar, 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

JUNE 02, 2016/*rd*