

\$~17

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

+ W.P.(CRL) 1830/2016

DEVENDER BANSAL & ORS. Petitioners

Through: Mr.Ajay Garg, Ms.Parul Parmar and
Mr.Mayank Dias, Advocates.

versus

STATE & ORS. Respondents

Through: Ms.Nandita Rao, ASC for the State
with SI Chetan Mandia, PS Sagarpur.
Mr.Piyush Jain, Advocate for R-5

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

%

02.06.2016

1. By way of this petition filed under Article 226/227 of the Constitution of India and Section 482 Cr.P.C. petitioners are seeking quashing of FIR No.223/2015 under Sections 323/341/452/506/34 IPC, PS Sagar Pur and consequential proceedings arising therefrom.

2. Briefly stating, the facts of the case daughter of petitioner No. 1 got married to the elder son of the respondent No.2/Complainant on 29.11.2012 according to Hindu rites, traditions and ceremonies. After the marriage certain disputes arose between the husband and wife which ultimately led to the registration of cross FIRs.

3. Thereafter the matter was referred to the Delhi Mediation Centre, Patiala House Courts, New Delhi and the matter has been amicably settled

between the parties. The daughter of the petitioner No. 1 and the elder son of respondent No. 2 have been cohabiting peacefully as husband and wife along with their children.

4. Today all the petitioners as well as Respondent No.2/Complainant are present in person with their counsel along with husband and wife namely Amit and Renu. Petitioners and Respondent No.2 submit that they have resolved the dispute amicably before the Mediation Centre and have no grievance whatsoever left against each other. Parties further submit that they undertake to abide by the terms and conditions of the settlement arrived at before the Mediation Centre. Parties pray that since they have arrived at an amicable settlement, the said FIR may be quashed.

5. On behalf of the State, learned APP submits that since the parties have arrived at an amicable settlement before the Mediation Centre and have no grievance whatsoever left against each other, appropriate orders may be passed.

6. The FIR registered against the present Petitioners is for committing the offences punishable under Sections 323/341/452/506/34 IPC. Offence punishable under Section 452 IPC is a non-compoundable offence. In the decision reported as ***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-dominatingly 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.”

7. 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.

8. Accordingly, the petition is allowed and FIR No.223/2015 under Sections 323/341/506/452/34 IPC registered at PS Sagar Pur and all the proceedings arising therefrom are hereby quashed.

9. Order *Dasti*.

PRATIBHA RANI, J.

JUNE 02, 2016

'hkaur'