

\$~7

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

+ W.P.(CRL) 2691/2015 and Crl.M.A.No.17085/2015

BAL KISHAN MEHTA & ORS Petitioners

Through: Mr.K.K.Sharma, Mr.Pushpander
Kumar & Ms.Jyoti Wason, Advocates

versus

THE STATE, NCT OF DELHI & ANR Respondents

Through: Ms.Nandita Rao, A.S.C. for the State
with Ms.Neha Dhir, Advocate with
SI Anand Prakash PS Khyala

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

%

06.04.2016

1. The present writ petition has been filed by the Petitioners praying for quashing of FIR No.228/2012, under Sections 498-A/406/34 IPC, P.S. Khayala, Delhi as well as the proceedings emanating therefrom, on the basis of settlement arrived at between the parties.

2. It is submitted on behalf of the parties that divorce by mutual consent has already been taken place between petitioner No.1 and respondent No.2. During divorce proceedings it was mutually agreed between the petitioner and complainant, respondent No.2 that their son, Master Devanshu shall remain in custody and care of his mother, respondent No.2 herein and petitioner No.1, Bal Kishan Mehta shall have no visitation rights.

3. When this petition for quashing of abovementioned FIR came up for hearing before this Court, the Court questioned the petitioners whether they have made any arrangements for the minor child, Master Devanshu, the

petitioners replied that since the respondent No.2 wanted to keep the child with her with no visitation rights to the father of the child to which he has agreed, no payment is required to be made by the petitioners in view of the understanding/settlement with the complainant.

4. After some deliberations, the petitioners have agreed to pay a sum of ₹2 lakhs in the form of FDR in the name of the minor child to be payable to him on his attaining the age of majority.

5. Today, petitioner No.1 has given FDR of UCO Bank for a sum of ₹2,00,000/-, which is in the name of his son, Master Devanshu with maturity period of 85 months and 1 day, copy of which is also placed on record, to respondent No.2.

6. Respondent No.2 is present in person and submits that she has settled the matter with the Petitioners and she has no objection if the FIR in question is quashed qua the Petitioners.

7. 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-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.”

8. Learned counsel for the petitioners and complainant submit that after the matter in dispute has been amicably settled between the parties, no

purpose would be served in prosecuting the petitioners, therefore the FIR in question and criminal proceedings emanating therefrom may be quashed.

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 No.228/2012, under Sections 498-A/406/34 IPC, P.S. Khayala, Delhi and consequential proceedings arising therefrom are hereby quashed.

Order dasti.

PRATIBHA RANI, J.

APRIL 06, 2016
'pg/da'