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

+ CRL.M.C. 703/2017

WASIM ANWAR

..... Petitioner

Through Mr.Rajeev Dhawan, Adv.

versus

STATE & ANR

..... Respondent

Through Mr.Panna Lal Sharma, APP wit SI
Ravinder Chander, PS Zafrabad.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

% **20.02.2017**

Crl.M.A. 2978/2017 (Exemption)

Application is allowed subject to just exceptions.

Crl.M.C. 703/2017

The present petition has been filed by the petitioner under Section 482 Cr.P.C. seeking quashing of FIR No.258/2014, under Section 377 IPC, Police Station Zafarabad on the basis of settlement arrived at between the petitioner and the complainant/prosecutrix (respondent no.2-herein).

The record reveals that it is alleged against the petitioner and the complainant/prosecutrix are husband and wife and the petitioner/accused had been committing unnatural act with the complainant since the first day of their marriage. When complainant objected to the same, she was beaten up and the accused kept on

doing such an unnatural act daily after taking some medicines.

The Hon'ble Apex Court in the case of **Gian Singh v. State of Punjab (2012) 10 SCC 303**, has observed that :

“54. Where High Court quashes a criminal proceeding having regard to the fact that dispute between the offender and victim has been settled although offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrong doing that seriously endangers and threatens well-being of society and it is not safe to leave the crime- doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without permission of the Court. In respect of serious offences like murder, rape, dacoity, etc; or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between offender and victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the

offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or F.I.R if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed.”

The aforesaid dictum stands reiterated by the Apex Court in the case of **Narinder Singh v. State of Punjab (2014) 6 SCC 466**. The relevant observations of the Apex Court in **Narinder Singh** (supra) are as under:-

“29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1 Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

- (i) ends of justice, or*
- (ii) to prevent abuse of the process of any court.*

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of

compromise between the victim and the offender.

29.4. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.”

In view of the law laid down in the cases of **Gian Singh's** (supra) and **Narinder Singh** (supra), this Court is of the considered opinion that no case for quashing the FIR in question is made out as the offence in the present case falls in the category of heinous offence.

Consequently, the present petition is hereby dismissed.

P.S.TEJI, J

FEBRUARY 20, 2017
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