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

+ W.P.(CRL) 560/2017

BIPIN KUMAR KARN Petitioner
Through: Mr.Dev Rishi, Advocate

versus

STATE & ORS Respondent
Through:Ms.Mallika Parmar, Advocate for
Ms.Richa Kapoor, ASC for State
S.I. Anita, P.S. Keshav Puram.
Mr.Ravi Kumar, Advocate for R-2.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **01.05.2017**

The petitioner seeks quashing of the FIR No.619/2015 (P.S. Keshav Puram) dated 31.08.2015 instituted for the offence under Sections 406/498A read with Section 34 IPC and all proceedings arising therefrom.

During the course of hearing of this writ petition, it was learnt that there are other accused persons also in this case. By an order of this Court, they were impleaded as respondents 3, 4 & 5.

The petitioner was married to respondent No.2 at Sitamarhi, Bihar on 10.06.2012. However, because of differences in temperament, they could not live as man and wife and in less than a year, they separated. The subject FIR came to be lodged only in the year 2015 at Delhi. During the investigation of this case, counselling of the parties took place and they agreed for settlement. A settlement deed was drawn up on 24th October,

2016. Pursuant to the aforesaid settlement, divorce petition by mutual consent, was filed before the family court.

This Court has been informed that the second motion has already been recorded and the judgment in the divorce case has been reserved.

As a part of the settlement, the petitioner and respondents 3, 4 & 5 were to give to respondent No.2 an amount of Rs.9.75 lakhs towards full and final settlement of her past, present and future claims. The entire money except Rs.3.25 lakhs has been paid.

The petitioner and respondents 3, 4 & 5 are ready with two drafts of Rs.1.25 lakhs and Rs.2 lakhs respectively (Total Rs.3.25 lakhs). The two drafts of said amount have been handed over by them to respondent No.2 which has been accepted by her towards full and final settlement of all her claims.

Considering the facts that the dispute has been settled and the parties have decided to separate by mutual consent no useful purpose will be served in keeping the case pending, this Court is inclined to quash the present FIR.

In ***Gian Singh vs. State of Punjab & Another, (2012) 10 SCC 303***, the Supreme Court has held that cases which are not compoundable under Section 320 of the Cr.P.C. could also be quashed, when continuation of any criminal proceeding would be an exercise in futility and where justice demands that the dispute between the parties should be put to an end and peace is restored. But ending of such criminal proceedings could only be ordered for securing the ends of justice.

The Supreme Court has further observed in *Gian Singh vs. State of Punjab & Another (Supra)*:

“58..... No doubt, crimes are acts which

have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the 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 the 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 the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the 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 the victim and the offender and the 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 FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the 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.”

[Refer to B.S. Joshi, (2003) 4 SCC 675; Nikhil Merchant, (2008) 9 SCC 677 and Manoj Sharma, (2008) 16 SCC 1.]

For the reasons aforerecorded, FIR No.619/2015 (P.S. Keshav Puram) dated 31.08.2015 instituted for the offence under Sections 406/498A read

with Section 34 IPC and all the emanating proceedings therefrom are quashed.

Thus, the petition is disposed of in the above terms.

ASHUTOSH KUMAR, J

MAY 01, 2017
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