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

+ CRL.M.C. 1052/2017

DHAN SINGH

..... Petitioner

Through : Mr.Rajiv Kumar Malik, Advocate
with petitioner in person.

versus

STATE & ANR.

..... Respondents

Through : Ms.Kusum Dhalla, APP for the State
with SI Rameshwar Prasad, PS
Fatehpur Beri.
Respondent No.2/complainant in
person.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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11.08.2017

1. The present petition has been filed by the petitioner under Section 482 CrPC for quashing of FIR No.515/2014 under Sections 354/323 IPC, PS Fatehpur Beri, Delhi and consequential proceedings arising therefrom on the basis of settlement arrived at between the parties.
2. Briefly stating, the FIR in question has been registered against the petitioner on the basis of complaint made by respondents No.2 wherein she stated that on 5th October, 2014 at about 9.30 am when she was cleaning outside her house, the petitioner came from behind and caught hold her from her waist and also pushed her.

3. It is mentioned in the petition that during the pendency of the criminal proceedings, the parties arrived at an amicable settlement due to intervention of the common friends of the village.
4. Learned counsel for the petitioner submits that parties have arrived at an amicable settlement out of their own sweet will. Learned counsel for the petitioner further submits that now the complainant has no grievance against the petitioner and she does not wish to pursue the criminal complainant any further. Learned counsel for the petitioner prays that after the matter in dispute has been amicably settled between the parties, no purpose would be served in prosecuting the petitioner, therefore the FIR in question and criminal proceedings emanating therefrom may be quashed.
5. Complainant/Respondent No.2 is present in person and affirms the factum of settlement. Respondent no.2 submits that she does not wish to pursue the criminal case against the petitioner any further, hence the FIR in question may be quashed qua the petitioner.
6. The FIR in this case has been registered under Section 354/323 IPC. Offence punishable under Section 354 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 laid down the following guidelines:-

“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 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 as laid down in Gian Singh's case (supra) and the 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 petitioner which will only be an exercise in futile and wastage of precious time of the Court.

8. However, in the facts and circumstances of the case, it is desirable that the petitioner must be burdened with cost. Accordingly, the petitioner is directed to deposit the cost of ₹10,000/- with Pragati Institute for Severally and Profoundly Mentally Retarded (ISPMR), Female Wing, Asha Kiran Complex, Sector-1, Rohini, Delhi-110085 within two weeks from the date of this order. The payment of cost should be made by cheque in favour of "H.O./D.O. for School & Home Mentally Retarded Children" in Account No.394501010013010. The said amount of ₹10,000/- shall be utilized to meet day to day urgent needs of the inmates.

9. The proof of depositing the cost shall be placed on record within one week thereafter.

10. The petition is allowed and FIR No.515/2014 under Sections 354/323 IPC, PS Fatehpur Beri, Delhi and all the proceedings arising therefrom are hereby quashed.

11. A copy of this order be sent to the Superintendent, Pragati Institute for Severally and Profoundly Mentally Retarded (ISPMR), Female Wing, Asha Kiran Complex, Sector-1, Rohini, Delhi-110085 for information and compliance.

Dasti as well.

PRATIBHA RANI, J.

AUGUST 11, 2017/ 'st'

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