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

+ **CRL.M.C. 1118/2017**

BHARAT BANSAL & ORS. Petitioners

Through Mr. Ram Kishan and
Ms. Usha Rai, Advs.

versus

STATE & ANR. Respondents

Through Mr. Amit Ahlawat, Addl. PP for State
with SI Gajender Singh, PS WC
Nanak Pura.
Respondent No.2/Complainant in
person alongwith Mr. Harish K.
Malhotra, Adv.

CORAM:

HON'BLE MR. JUSTICE A.K. CHAWLA

ORDER

% **17.05.2017**

CM No.8253/2017 (Exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

CRL.M.C. 1118/2017

By the petition filed under Section 482 Cr.P.C., FIR No. 140/2014 under Sections 498A/406/34 IPC PS Nanak Pura is sought to be quashed. Respondent no.2, who is the complainant and the wife of the petitioner no.1, joins for the purpose. IO present before the Court, identifies the parties on either side. FIR is the off-shoot of a matrimonial dispute, which has come to be resolved amicably and the terms of compromise/settlement have come to be recorded before the Principal Judge (North-West), Family Court, Rohini on 13.1.2016.

The relevant portion of the compromise/settlement is as under :

“We have been living separately since 12.04.2013 and have not been able to live together since then. There is no possibility of our living together again as husband and wife. We have accordingly decided to dissolve our marriage by mutual consent. Our consent for divorce by mutual consent has not been obtained by force, fraud or undue influence. There is no collusion between us in filing of the present petition. We have not lived together and cohabited with each other since the day of our separation and even after passing of order dated 01.06.2015 in the first motion petition bearing HMA No.601/15. The certified copies of joint statement and order of first motion are collectively Ex.P-7.

As per the settlement, the petitioner no.2 has agreed to pay a total sum of Rs.1,76,500/- to the petitioner no.1 towards full and final settlement of all her claims in respect of dowry/stridhan articles, maintenance – past, present and future, and permanent alimony and after receipt of the said total sum, no claim shall be left against each other and each other’s family members qua the marriage including the claim of the minor daughter. Out of the said total sum of Rs.1,76,00/- , a sum of Rs.1,32,375/- has already been paid by petitioner no.2 to petitioner no.1 and today petitioner no.2 has paid the remaining settled amount of Rs.44,125/- to the petitioner no.1 by way of demand draft bearing no.492930 dated 23.11.2015, drawn on Union Bank of India, Ashok Vihar, New Delhi branch. Copy of said DD is Ex.P-8 (OSR).

I, petitioner no. 1 undertake to cooperate in quashing of FIR being no. 140/2014, PS CAW Cell, Nanakpura, U/s 498A/406/34 IPC and FIR bearing no. 160/14, PS Prashant Vihar, U/s 354 IPC before Hon’ble High Court of Delhi, steps of which shall be taken by the petitioner no.2. The father of petitioner no. 2 i.e. Sh. C.M. Bansal shall withdraw his complaint filed before the Income Tax Authority and at any other forum against petitioner no. 1 and her family members (Sh. Ashwani Kumar Beriwal (Nana of the petitioner no.1 and his family) before the filing of petition for quashing of FIR before the Hon’ble High Court of Delhi and further he will not pursue his complaint.

We shall have no right, title, claim or interest of any nature

whatsoever against each other in the properties in our possession and our family members possession or acquired/obtained in future.

We both undertake to abide by the terms and conditions as mentioned in the joint petition Ex.P-A as well as our joint-statement recorded today in the Court.

.....”

Both the parties state that no case is pending against either of the parties, but, for the subject FIR. Though challan has come to be filed in the subject FIR, the matter is still remaining at the stage of charge. Respondent no.2 present before the Court also states that she is left with no claim of any kind whatsoever against any of the petitioners. With the compromise/settlement arrived at, even if the charges come to be framed against the petitioners, it does not appear that trial would bear any fruit and it would be a futile exercise. Even otherwise, the dispute inter-se the parties is of private nature. In Criminal Appeal No. 686/2014 titled **Narinder Singh & Ors. vs. State of Punjab & Anr.**, decided on 27th March, 2014, Hon’ble Supreme Court set down the principles for exercise of power under Section 482 Cr.P.C., in the following words :

“31. 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:

(I) 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.

(II) 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.

(III) 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 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.

(IV) On the other, those criminal cases having overwhelmingly and pre-dominantly 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.

(V) While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

.....
.....”

Keeping in view the ratio of the judgment (supra) and totality of the facts and circumstances, I am satisfied that ends of justice would be met, if, the subject FIR no. 140/2014, PS Nanak Pura is

quashed alongwith the consequential proceedings emanating therefrom. It is Ordered accordingly. Petition stands disposed off.

A.K. CHAWLA, J

MAY 17, 2017/rc