

\$~7

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

+ CRL.M.C. 1543/2017

ROHIT

..... Petitioner

Through Mr.Harkirat Kaur, Adv.

versus

STATE NCT OF DELHI & ANR.

..... Respondents

Through Mr. Arun Kumar Sharma, APP.

SI Talib Khan PS Neb Sarai.

Mr.Vineet Malhotra, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **21.09.2017**

CRL. M.A.6279/2017 (Exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

Crl.M.C. 1543/2017

The petitioner seeks quashing of the FIR No.832/2014 dated 17.09.2014 (P.S. Neb Sarai) instituted for offences under Sections 354/354-A/354-C/506/509 of the IPC.

It has been alleged in the FIR that the petitioner who is the brother-in-law of the complainant/respondent no.2 forcibly opened the door of the bathroom while the respondent No.2 was bathing and clicked snaps of her when she was not wearing any clothes. It has been submitted that this case has been filed while the complainant/respondent no.2 was pursuing litigation

against her husband and his other family members. Now, no dispute remains to be resolved as respondent no.2/complainant has already been divorced by the brother of the petitioner by mutual consent.

A settlement has also been effected between the parties and pursuant to which the petitioner is required to pay Rs.75,000/- to the complainant/respondent no.2. Out of the aforesaid amount, Rs.50,000/- has been paid by way of DD No.138619 dated 05.07.2017 drawn on Central Bank of India in favour of respondent no.2 and the balance amount of Rs.25,000/- has been paid in cash to respondent no.2 in the Court today which respondent No.2 has accepted to her satisfaction.

Since the subject FIR is only an off-shoot of matrimonial dispute between the complainant/respondent no.2 and her husband, this Court is inclined to quash the subject FIR as no useful purpose would be served in keeping the investigation in the aforesaid case pending.

The petitioner and respondent no.2 are present in court and have been identified by their respective counsels.

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 afore-recorded, the FIR No.832/2014 dated 17.09.2014 (P.S. Neb Sarai) instituted for offences under Sections 354/354-

A/354-C/506/509 of the IPC and all the emanating proceedings therefrom are quashed.

The petition is disposed of.

ASHUTOSH KUMAR, J

SEPTEMBER 21, 2017
ab