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IN THE HIGH COURT OF DELHI AT NEW DELHI

CRL.M.C. 1604/2017

DEVENDER NAGAR & ANR

..... Petitioners

Through

Mr. Kishor Kumar, Advocate

versus

STATE (GOVT OF NCT DELHI) & ANR

..... Respondents

Through

Mr. Herein Sharma, Addl. PP with SI

Rajesh Kumar, P.S. Kotla Mubarakpur

Mr. Mayank Sharma, Adv. for R-2

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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22.05.2017

By the petition filed under Section 482 Cr.PC, the petitioner seeks quashing of the FIR No. 683/2005 under Sections 498A/406/34 IPC, P.S. Kotla Mubarakpur. IO identifies the parties present before the Court.

Petition proceeds on the premise that the complainant and the petitioners have arrived at a compromise/settlement and thereunder, the other actions/counter actions stand withdrawn. The subject FIR is the off-shoot of a matrimonial dispute between the respondent No.2 and the petitioners. Originally the charge sheet in the subject FIR had come to be filed against four accused persons, two of whom, namely, Devender and Shimla, stood discharged. As of now, only the petitioners are facing trial. The parties before the Court state that the petitioner No.1 and the complainant- respondent No.2 are living together separately from the petitioner no.2 for more than a year's

time. Mr. Herein Sharma, Addl.PP on instructions from the IO also states that both the petitioner no.1 and respondent no.2 are living separately and comfortably. It is, therefore, jointly prayed that the subject FIR is quashed.

It is stated that though on the challan filed, charges have been framed but the recording of prosecution evidence is yet to commence. With the compromise/settlement arrived at amongst the parties, I do not think that the trial would bear any fruits. Even otherwise, the offences arise out of a matrimonial dispute, which is of a 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 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.

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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 with, if, the subject FIR no. 683/2005, PS Kotla Mubarakpur, is quashed, alongwith the consequential proceedings emanating therefrom. It is Ordered accordingly. Petition stands disposed off.

A. K. CHAWLA, J

MAY 22, 2017/mw