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

+ W.P.(CRL) 1420/2017

SHANKY DUA @ LOKESH

..... Petitioner

Through Mr. Tarun Gautam, Adv.

versus

THE STATE OF NCT OF DELHI & ANR

..... Respondents

Through Ms. Richa Kapoor, ASC with Ms.
Mallika Parmar, Adv. for state.
SI Shadev Singh PS Vivek Vihar.
Mr. Mohit Jain, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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19.05.2017

CrI.M.A.7841/2017

Exemption allowed, subject to all just exceptions.

Application is disposed of.

W.P.(CrI.) 1420/2017

The petitioner seeks quashing of FIR No.454/2015 dated 19.05.2015 (PS Vivek Vihar) instituted for the offence under sections 380 of the IPC.

It has been pointed out that the petitioner and respondent no.2 were married to each other but the marriage did not succeed. Before an FIR under section 498A and other sections of the IPC was lodged by respondent no.2, the present FIR was lodged by respondent no.2 against her husband alleging theft of personal property. Thereafter FIR No.611/2015 dated 08.07.2015 under section 498A/406/34 of the IPC was filed.

The spouses, realizing the futility of any further litigation, decided to settle the disputes. As part of the settlement, it was decided that petitioner and respondent no.2 would obtain divorce by mutual consent. It was also agreed upon that respondent no.2 shall be paid a total amount of Rs.7 lakhs towards all her claims.

The aforesaid amount has already been paid. The FIR No611/2015 under section 498A IPC has been quashed by an order of this Court today.

Taking into account the fact that the present FIR is only a fall out of the matrimonial dispute, which has now been settled and the main FIR has also been quashed, this Court is inclined to quash the subject 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 aforesaid facts, the FIR No.454/2015 dated 19.05.2015 (PS Vivek Vihar) instituted for the offence under sections 380 of the IPC and all other proceedings emanating therefrom are quashed.

The petition is disposed of in terms of the above.

ASHUTOSH KUMAR, J

MAY 19, 2017/ab