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

+ CRL.M.C. 1943/2017

VICKY KUMAR & ANR Petitioner

Through Mr. Tarun Kumar Malhotra,
Advocate

versus

NCT OF DELHI & ANR Respondent

Through Mr.Ashok K.Garg, Addl. PP with
W/ASI Jyoti, P.S.Rajouri Garden
Mr. S.Gaurav Sasan and Mr. Saurabh
Sasan, Advocates

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% **19.05.2017**

By the petition filed under Section 482 Cr.PC, FIR 59/2016 under Sections 498-A/406/34 IPC P.S. Rajouri Garden is sought to quashed. IO identifies all the parties before the Court. It is stated that the petitioners are the only accused persons and the matter is still at the stage of consideration on charge. The subject FIR is the off-shoot of a matrimonial dispute and the parties have already compromised/settled their dispute and differences. In pursuance thereof, a decree of divorce amongst the petitioner No.1 and the complainant- respondent No.2 has already come to be passed by the Principal Judge, Family Court, West Tis Hazari Courts, Delhi on

27.2.2017.

Today before the Court, a bankers cheque drawn on Oriental Bank of Commerce favouring the complainant/respondent no.2 in the sum of Rs. 60,000/- has also come to be handed over to the complainant/respondent no.2. Receiving the said payment, complainant/respondent no.2 states that now she is left with no other claim(s) of any kind whatsoever, against the petitioners and that, the subject FIR may also be quashed.

With the compromise arrived at, it is not likely that the trial of the offences would bear any fruits. The off-shoot of the FIR is a matrimonial dispute and thereby, a private one. With the compromise/settlement arrived at, not only the respective parties would get an opportunity to have better recourse for their lives, the elements of any enmity, also getting resolved.

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.

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Keeping in view the totality of the facts and circumstances, I am satisfied that the ends of justice would be met with, if the subject FIR No.59/2016 under Section 498A/406/34 IPC P.S.Rajouri Garden is quashed alongwith consequential action(s) emanating therefrom, including the filing of the charge sheet. It is ordered accordingly.

The petition stands disposed of accordingly.

A. K. CHAWLA, J

MAY 19, 2017

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