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

+ CRL.M.C. 2142/2017

MD ARIF & ORS

..... Petitioners

Through

Mr.A.K.Suri and Mr. Sumbul Nizam,
Advocates with petitioner in person

versus

STATE & ORS

..... Respondents

Through

Mr. Hirein Sharma, Addl.PP for State
with SI Baldev Raj, P.S.Okhla
Industrial Area

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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24.05.2017

Crl.M.A.No. 8788/2017 (Exemption)

Exemption allowed, subject to just exceptions.

Application stands disposed off.

Crl.M.C.No. 2142/2017

By the petition filed under Section 482 Cr.PC, FIR No. 300/2015 under Sections 498A/328/34 IPC, P.S.Okhla Industrial Area is sought to be quashed. IO identifies all the parties present before the Court.

The subject FIR is the off-shoot of a matrimonial dispute and the parties have already compromised/settled their disputes and differences. It is also jointly stated that but for the subject FIR, all other actions/counter actions amongst the parties have been resolved

under the compromise/settlement arrived at. It is stated that though, the challan has since been filed, but, the matter is still to be taken up for consideration on charge. As per the charge sheet, the only accused sent for trial is the petitioner No.1–husband and petitioners No.2 to 9 are stated to have been put in Column No.12. Assuming the charges have come to be framed, with the compromise/settlement arrived at, it is highly improbable that the trial would bear any fruits and the entire exercise in all probabilities going to be futile. Be that as it may, the parties have arrived at compromise/settlement. On being queried, during the course of hearing, the complainant-respondent No.2 states that she is living happily with the husband- petitioner no.1 and other family members and quite comfortable and states that the subject FIR may be quashed for harmony and better relations amongst the family. 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.300/2015 under Sections 498A/328/34 IPC, P.S.Okhla Industrial Area is quashed alongwith consequential action(s) emanating therefrom. It is ordered accordingly.

The petition stands disposed off.

A. K. CHAWLA, J

MAY 24, 2017/mw