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

+ CRL.M.C. 2189/2017

ARJUN KUMAR

..... Petitioner

Through: Mr.Kartik Kumar, Advocate with
Petitioner in person

versus

GOVT. OF NCT OF DELHI & ANR.

..... Respondents

Through: Ms.Kusum Dhalla, APP for the State
with SI Nitesh Nehra, PS Patel Nagar
R-2 in person

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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12.07.2017

1. The present petition has been filed by the Petitioner under Section 482 of the Code of Criminal Procedure praying for quashing of FIR No.212/2015 registered under Section 354-D IPC at P.S. Patel Nagar, Delhi and consequential proceedings arising therefrom.
2. In this case, the FIR No.212/2015 under Section 354-D IPC has been registered on the complaint of respondent No.2. The contents of the FIR reads as under:

“I Harshita Mohanpuria residing at 33/7 Ground Floor, East Patel Nagar, New Delhi-110008 is living harassed by a boy named Arjun Kumar from past few days and is living followed and being harassed till death. I want you to take some actions

so that I could be safe. This guy residing at WZ-48A, 3rd floor, Om Vihar Phase-II, Ph.9873240145 and 9650058923, Uttam Nagar West. Requesting you to take some strict action against him. I really request you to take immediate and strict action, he is harassing me at my home landline even though I have changed my number and is being following me at home and came at home at 10.30 PM, 07/03/2015.”

3. On 11th April, 2016, during the pendency of the investigation in the above noted FIR, respondent No.2 made a statement before the learned Metropolitan Magistrate, Mahila Court that she does not want to pursue the present FIR and will cooperate with the petitioner in quashing the FIR. Certified copy of the order dated 11th April, 2016 is also annexed with this petition as Annexure-C.

4. Though the petitioner has been charged with the offence which is non-compoundable, but in the decision reported as ***Gian Singh v State of Punjab & Anr. 2012 (9) SCALE 257***, the three Judges Bench of the Supreme Court dealing with the issue of quashing of FIR has laid down the following guidelines:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences Under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim

have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed.

However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominatingly civil favour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

5. Respondent No.2/complainant is present in person and states that the petitioner was her friend for about 8-10 years and thereafter some differences arose between them. She further submits that now the matter has been settled between them and petitioner has assured not to remain in touch with her or try to contact her telephonically. It is further submitted by the respondent No.2/complainant that she has no objection if the FIR in question and all proceedings emanating therefrom are quashed.

6. The petitioner, who is present in Court, submits that he will abide by the settlement entered into between him and the complainant and the assurance given by him to the complainant not to remain in touch with her or try to contact her telephonically.

7. In view of the assurance given by the petitioner, I am of the considered view that no useful purpose would be served by continuing the criminal proceedings against the petitioner, which will only be an exercise in futile and wastage of precious time of the Court.

8. Accordingly, FIR No.212/2015 registered under Section 354-D IPC at P.S. Patel Nagar, Delhi and consequential proceedings arising therefrom are hereby quashed. The petition is allowed.

9. Copy of the order be given *dasti* to the parties.

PRATIBHA RANI, J.

JULY 12, 2017

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