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

+ **CRL.M.C. 2241/2017**

SANJEEV KUMAR MAKKAR & ANR Petitioners
Through Petitioners in person with Mr. Vijay
Kinger, Adv.

versus

STATE GOVT OF NCT OF DELHI & ANR Respondents
Through Mr. Ashok Kumar Garg, Addl. PP for
State with SI Vikas Tomar.
Complainant-respondent no.2 in
person with Mr. Sushil Kumar, Adv.

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% **29.05.2017**

CRL. M.A.No.9202 /2017 (Exemption)

Exemption allowed, subject to just exceptions.

Application stands disposed off.

CRL. M.C.No. 2241/2017

By the instant petition filed under Section 482 Cr.PC, FIR no. 623/2015 under Sections 354/354D/229 IPC, P.S. Bhajanpura, is sought to be quashed. IO identifies the parties present before the Court.

Subject FIR is the off-shoot of a matrimonial dispute amongst the complainant-respondent no.2 and the petitioner No.1 – Jeth (brother-in-law) of the complainant-respondent no.2. Both the parties state that they have arrived at a compromise/settlement during

mediation before Delhi Govt. Mediation & Conciliation Centre and in pursuance thereof, certain payments have already been received. Marriage between the complainant-respondent no.2 and the petitioner no.2 has since been dissolved by decree of divorce. Today, before the Court, a demand draft favouring the complainant-respondent no.2 drawn on Union Bank of India for Rs.40,000/- has also come to be handed over to the complainant-respondent no.2. Complainant-respondent No.2 present before the Court, states that with the receipt of the said payment today, she is left with no other claim(s) of any kind whatsoever, against the petitioners. It is also stated that though, the challan is filed, it is filed only for the trial of the offences under Sections 354/354D and that, it is yet to be taken up for consideration on charge. Assuming, the charges 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 likelihood would be futile. With the compromise/settlement arrived at, not only the respective parties would get an opportunity to have better recourse for their lives, it shall bring peace and harmony in their families. 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. 623/2015 under Sections 354/354D/229 IPC, P.S. Bhajanpura be quashed alongwith consequential action(s) emanating therefrom. It is ordered accordingly. Petition stands disposed off.

A. K. CHAWLA, J

MAY 29, 2017

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