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

% Date of Decision: 11.09.2017

+ W.P.(CRL) 2159/2017

ANIL KUMAR GARG & ORS

..... Petitioners

Through Mr.Sushil Shukla, Adv. with
Mr.Rachit Batra, Adv. with petitioners No.1 and 2
in person.

versus

STATE & ANR.

..... Respondents

Through Mr.Ashish Negi, Adv. for Ms.Richa
Kapoor, ASC for State with W/ASI Krishna, P.S.
Vikas Puri.
Mr.Himanshu Kapoor, Adv. for R-2 along with
respondent No.2 in person.

CORAM:

HON'BLE MR. JUSTICE VINOD GOEL

VINOD GOEL, J. (Oral)

1. Respondent No.2 appears in person. She is being represented by her counsel. She is duly identified by IO W/ASI Krishna.
2. The petitioners have invoked the writ jurisdiction of this court under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (in short 'Cr.PC') for quashing of the FIR bearing No.0409/2016, registered on 20.05.2016 against them with Police Station Vikas Puri, West District, Delhi, under Sections 498/406/377/354/354(A)/506/509 IPC on the complaint of respondent No.2.
3. The marriage of the petitioner no.3 with the respondent no. 2 was solemnized on 05.12.2014 as per Hindu rites and ceremonies.

However, out of this wedlock no child was born.

4. After solemnization of their marriage, the petitioner no.3 and the respondent no.2 started residing together in the matrimonial home. Due to some temperamental differences between the petitioner no.3 and the respondent no.2, they could not reconcile with each other. Resultantly, the respondent no.2 left the matrimonial home on 27.12.2014 and started residing separately with her parents.
5. The petitioner no.3 and respondent no.2 were residing in USA. They agreed to enter into a settlement and seek divorce decree from the Superior Court of New Jersey, Chancery Division, Family Part, County of Hudson. Accordingly, the petitioner no.3 and respondent no.2 executed a Mutual Settlement Agreement dated 27th April, 2015 and on the basis of the same, a mutual consent petition for divorce was filed by them before Superior Court of New Jersey. By order dated 7th July, 2015, the Superior Court of New Jersey, Chancery Division, Family Part, County of Hudson, granted a decree of divorce by which the marriage between the petitioner no. 3 and the respondent no.2 was dissolved.
6. After grant of decree of divorce by the Superior Court of New Jersey, the respondent no. 2 lodged a complaint with CAW Cell which culminated into said FIR against the petitioners.
7. After the registration of the said FIR, the petitioners and respondent no.2 had resolved and settled all their disputes in terms of Memorandum of Understanding dated 22.05.2017. Copy of the same is placed on record.
8. The respondent No.2 states that she had voluntarily settled and

resolved all disputes with the petitioners without any force and coercion. She submits that pursuant to the settlement she had received all the articles as mentioned in paras 9 and 10 of MOU dated 22.05.2017. She submits that she does not want to pursue the said FIR. She submits that the said FIR may be quashed.

9. Learned counsel appearing on behalf of learned Additional Standing Counsel for the State submits that the State has objection to the quashing of the said FIR in view of serious offence under Section 377 IPC. Status report dated 07.09.2017 was filed. It is mentioned in the status report that during investigations parties had amicably settled the matter. Learned counsel for learned Additional Standing Counsel submits that charge-sheet has so far not been filed.
10. Here it is relevant to advert to Section 482 Cr.PC which reads as under:-

“482. Saving of inherent power of High Court.– Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.”

11. A bare reading of Section 482 Cr.PC shows that inherent powers of this Court are not limited or affected by the Cr.PC and there are to be exercised to (i) give effect to any order under Cr.PC (ii) prevent abuse of the process of any Court or (iii) to secure the ends of justice.
12. The Apex Court in the judgment of **Gian Singh vs. State of Punjab & Anr., 2012 (10) SCC 303**, while dealing with the scope of power of High Court under Section 482 Cr.PC observed as under: -

“61. 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 predominatingly civil flavour 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.”

13. The aforesaid judgment was followed recently by Hon’ble Supreme Court in “**Yogendra Yadav and Ors. Vs. State of Jharkhand & Anr.**” *AIR 2014 SC 3055*, wherein while dealing with the power of the High Court to quash an FIR u/s. 326 and 307 of IPC it was held as under: -

“4. Now, the question before this Court is whether this Court can compound the offences **Under Sections 326 and 307** of the Indian Penal Code which are **non-compoundable**? Needless to say that offences which are non-compoundable cannot be compounded by the court. Courts draw the power of compounding offences from Section 320 of the Code. The said provision has to be strictly followed (*Gian Singh v. State of Punjab* (2012) 10 SCC 303). However, in a given case, the High Court can quash a criminal proceeding in exercise of its power Under Section 482 of the Code having regard to the fact that the parties have amicably settled their disputes and the victim has no objection, even though the offences are non-compoundable. In which cases the High Court can exercise its discretion to quash the proceedings will depend on facts and circumstances of each case. Offences which involve moral turpitude, grave offences like rape, murder etc. cannot be effaced by quashing the proceedings because that will have harmful effect on the society. Such offences cannot be said to be restricted to two individuals or two groups. If such offences are quashed, it may send wrong signal to the society. **However, when the High Court is convinced that the**

offences are entirely personal in nature and, therefore, do not affect public peace or tranquility and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, the prosecution becomes a lame prosecution. Pursuing such a lame prosecution would be waste of time and energy. That will also unsettle the compromise and obstruct restoration of peace.”

14. In an another case of Hon’ble Supreme Court titled as **G.V. Rao Vs. L.H.V. Prasad & Others, (2000) 3 SCC 693**, it was observed in Para 12 as under: -

“12. There has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. **There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their “young” days in chasing their “cases” in different courts.**”

15. In yet another case of **Narinder Singh v. State of Punjab, (2014) 6 SCC 466**, it was observed by the Apex Court in para 29 as under: -

“29.3. 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 the 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.

29.4. On the other hand, those criminal cases having overwhelmingly and predominantly 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.”

16. In the case at hand, compromise is arrived at by both the individuals, who are none else but husband and wife, the matter being entirely personal in nature. It is noticeable in aforementioned cases that the matrimonial disputes or family disputes which are resolved by parties themselves like the case at hand should be quashed thus not amounting to encouragement of disputes arising out of any such relationship or the family dispute and consequent, putting an end to the prolonged process of fighting in a Court of Law. In the present case, marriage of petitioner No.1 with respondent No.2 was solemnized on 5.12.2014. They could not adjust with each other and the respondent No.2 left the matrimonial home on 27.12.2014. Even by mutual consent divorce was granted on 07.07.2015 by Superior Court of New Jersey, Chancery Division Family Part, County of Hudson. Even then the disputes continued between the parties and FIR in question was registered subsequently on 20.05.2016. Fortunately the petitioners and respondent No.2 have amicably resolved and settled all their disputes in terms of MoU dated 22.05.2017. Its terms and conditions had been fulfilled. Therefore, it

would be the abuse of the process of law in case the FIR is continued or not quashed.

17. Both the parties submit that now nothing is due and recoverable by them against each other. Since the parties have amicably settled their all disputes, no fruitful purpose would be served in further pursuing the said FIR. Hence, to secure ends of justice, the FIR bearing No.0409/2016, registered on 20.05.2016 against them with Police Station Vikas Puri, West District, Delhi, under Sections 498/406/377/354/354(A)/506/509 IPC and proceedings arising out of the said FIR are hereby quashed.
18. The petition is disposed of accordingly.
19. *DASTI.*

VINOD GOEL, J.

SEPTEMBER 11, 2017/jitender