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

+ W.P.(CRL) 1712/2017

SMT. KAMLA ARORA & ORS Petitioners

Through Mr.L.K. Singh, Adv.

versus

THE STATE NCT OF DELHI & ANR Respondents

Through Mr.Sanjay Lao, ASC with
Mr.Siddharth Sindhu, Adv.
SI Deepak Pandey PS Preet Vihar

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **30.05.2017**

Crl.M.A. 9481/2017

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(Crl.) 1712/2017

The petitioners have sought quashing of the FIR No.279/2011 dated 01.10.2011 (PS Preet Vihar) instituted for the offences under sections 323/341/342/406/34 of the IPC.

The complainant/respondent no.2 is the daughter-in-law of petitioner no.1. The husband of respondent no.2, Mukesh Arora, died in the year 2011. He was involved in the family business of the petitioners. Petitioner nos.2 & 4 are the sons of petitioner no.1 whereas petitioner nos.3 & 5 are the daughter-in-laws of petitioner no.1. It has been submitted that a civil suit

vide CS No. 164/2011 (new No.2098/2016) had also been filed by petitioner no.1 against respondent no.2 seeking partition of the estate left behind by her late husband. The respondent no.2 also had filed an application under section 12 of the Domestic Violence Act against the petitioners. During the pendency of the aforesaid proceedings, a settlement was arrived at between the parties and respondent no.2 agreed to accept Rs.27 lakhs towards full and final settlement of all her claims arising out of and in relation to her marriage with a son of the family and her legal status as a daughter-in-law of petitioner no.1.

As part of the settlement/arrangement, the complaint under section 12 of the Domestic Violence Act was withdrawn by respondent no.2. The civil suit filed by petitioner no.1 has been decreed in terms of the settlement between the parties. The petitioners have paid to respondent no.2 an amount of Rs.17 lakhs upto now, which assertion has been affirmed by respondent no.2 who is present in Court today. The petitioners have paid an amount of Rs.10 lakhs by way of 3 Demand Drafts vide DD Nos. 000119 and 000118 dated 18.05.2017 for Rs.2,00,000/- and Rs.1,00,000/- respectively issued by HDFC Bank, Vikas Marg, Shakarpur, Delhi; and DD No.114237 dated 18.05.2017 for Rs.5,00,000/- issued by Indian Overseas Bank, Preet Vihar, Delhi and cash of Rs.2 lakhs. The aforesaid amount has been accepted by respondent no.2 in Court in the presence of her counsel and to her satisfaction.

The parties have been identified by their respective counsels.

Learned counsel appearing for the petitioner has also stated that one of the terms of the agreement is that after the amount so settled would be accepted by respondent no.2, she would render all co-operation in getting

the subject FIR quashed.

Taking into account the aforesaid facts namely, death of the husband of respondent no.2 whereafter some dispute arose between the parties and final settlement of all disputes culminating in payment of a lump sum amount to respondent no.2 in lieu of all her claims in the capacity of daughter-in-law of the house, this Court deems it expedient not to permit any further investigation in the subject FIR.

For the reasons stated aforesaid, this Court has been persuaded to quash the subject FIR.

In ***Gian Singh vs. State of Punjab & Another, (2012) 10 SCC 303***, the Supreme Court has held that cases which are not compoundable under Section 320 of the Cr.P.C. could also be quashed, when continuation of any criminal proceeding would be an exercise in futility and where justice demands that the dispute between the parties should be put to an end and peace is restored. But ending of such criminal proceedings could only be ordered for securing the ends of justice.

The Supreme Court has further observed in *Gian Singh vs. State of Punjab & Another (Supra)*:

“58..... No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special

statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.”

[Refer to B.S. Joshi, (2003) 4 SCC 675; Nikhil Merchant, (2008) 9 SCC 677 and Manoj Sharma, (2008) 16 SCC 1.]

For the aforesaid facts, the FIR No.279/2011 dated 01.10.2011 (PS Preet Vihar) instituted for the offences under sections 323/341/342/406/34 of the IPC and all other proceedings emanating therefrom are quashed.

The petition is disposed of in terms of the above.

ASHUTOSH KUMAR, J

MAY 30, 2017

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