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

+ CRL.M.C. 2572/2017

RAJENDER KUMAR & ORS

..... Petitioners

Through: Mr.Sunil Kumar Verma, Advocate

versus

STATE GOVT OF NCT OF DELHI & ANR

..... Respondents

Through: Mr.B.K.Singh, Advocate for R-2 with
respondent No.2 in person

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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11.07.2017

CRL.M.A.10693/2017

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

CRL.M.C. 2572/2017

1. By way of present petition filed under Section 482 Cr.P.C., the petitioners are seeking quashing of FIR bearing No.619/2015, under Sections 323/354/34 IPC, registered at PS Bindapur, Delhi and all the proceedings arising therefrom.

2. Brief facts leading to filing of this petition are that petitioner No.1 was married to the respondent No.2 on 26th September, 1994 at New Delhi according to Hindu rites and customs. Due to differences between petitioner No.1 and respondent No.2, they could not live together. On the complaint of the respondent No.2 FIR No.619/2015 was registered against

the petitioner under Sections 323/354/34 IPC, PS Bindapur, Delhi. Thereafter counter FIR bearing No.626/2015 under Section 323/341/506/34 IPC was registered at PS Bindapur.

4. It is further stated in the petition that during the pendency of investigation in the said FIRs, with the intervention of respectable persons of both the families and relatives, the matter between the parties was amicably settled and parties agreed to dissolve the marriage by a decree of divorce with mutual consent. The copy of the said settlement deed dated 23rd February, 2017 has been placed on record as Annexure P-5.

5. In terms of full and final settlement arrived at between the parties, the petitioner No.1 paid a total sum of ₹12,00,000/- to the respondent No.2 towards full and final settlement of all her claims.

6. Respondent No.2 is present in person and submits that she has settled the matter with the petitioner No.1 and in terms of said settlement, she has received the entire payment of ₹120,00,000/- from the petitioner No.1. Respondent No.2 further submits that she has no objection if the FIR No.619/2015, under Sections 323/354/34 IPC, registered at PS Bindapur is quashed qua the petitioner No.1.

7. Though the petitioners have been charged with the offences, some of them are non-compoundable, but in the decision in the case of ***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-dominantly 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.”

8. In view of the legal position laid down in *Gian Singh's case* (Supra) and amicable settlement arrived at between the parties, 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.

9. Accordingly, in terms of the settlement arrived at between the parties, FIR bearing No.619/2015, under Sections 323/354/34 IPC, registered at PS Bindapur, Delhi and all consequential proceedings emanating therefrom are hereby quashed. The petition is allowed.

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

PRATIBHA RANI, J.

JULY 11, 2017

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