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

+ W.P.(CRL) 1833/2017

UTTAM JAIN & ORS.

..... Petitioners

Through: Mr.Sandeep Jain, Advocate

versus

STATE & ANR.

..... Respondents

Through: Mr.Jamal Akhtar, Advocate for
Mr.Rahul Mehra, St.Counsel for the
State with ASI Amar Chand
PS Krishna Nagar
Mr.Rajesh Jain & Ms.Sakshi Arora,
Advocates for R-2

AND

+ W.P.(CRL) 1845/2017

UTTAM JAIN & ORS.

..... Petitioners

Through: Mr.Sandeep Jain, Advocate

versus

THE STATE & ANR.

..... Respondents

Through: Mr.Jamal Akhtar, Advocate for
Mr.Rahul Mehra, St.Counsel for the
State with ASI Amar Chand
PS Krishna Nagar
Mr.Rajesh Jain & Ms.Sakshi Arora,
Advocates for R-2

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

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ORDER
10.07.2017

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1. The above two writ petitions have been filed by the petitioners under Article 226 of the Constitution of India read with Section 482 Cr.P.C praying for quashing of the two FIRs i.e. FIR No.681/2015 under Sections 354-A/354/509/323/34 IPC and FIR No.754/2015 under Sections 323/341/354/506/34 IPC, PS Krishna Nagar, Delhi and proceedings emanating therefrom against the petitioners on the basis of settlement arrived at between the parties.

2. Briefly stating the facts of the present case are that Respondent No.2 was got married to Petitioner No.1 on 7th May, 2015 at C.B.D. Ground, Shahdara, Delhi according to Hindu rites and ceremonies. It is further mentioned in the petitions that due to temperamental and other differences, the Petitioner No.1 and Respondent No.2 could not live together and started living separately since 21st September, 2015, on which date Respondent No.2 filed a complaint to the PS Krishna Nagar against the Petitioners, on the basis of which FIR No.681/20105 was registered under Section 354-A/509/323/34 IPC. After registration of the FIR, the petitioners were admitted on anticipatory bail vide order dated 7th October, 2015. Thereafter, on 16th October, 2015 respondent no.2/complainant lodged another FIR No.754/2015 under Sections 323/341/354/506/34 IPC against the petitioners. It is mentioned in the petition that during the pendency of above proceedings, the disputes have been amicably settled among the petitioners and respondentNo.2 with the intervention of their family members/relatives and to this effect, a compromise deed dated 18th November, 2015 has been

reduced in writing and copy of the said compromise deed dated 18th November, 2015 has been placed on record as Annexure P-3.

3. In terms of full and final settlement arrived at between the parties, the petitioner No.1 paid a total sum of ₹7,00,000/- to the respondent No.2 qua her full and final claim of maintenance (past, present and future).

4. Respondent No.2 is present in person and submits that she has settled the matter with the Petitioners and in terms of said settlement, she has received the entire payment of ₹7,00,000/- from the Petitioners. Respondent No.2 further submits that she has no objection if the FIRs in question are quashed qua the Petitioners.

5. 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."

6. 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 petitioners, which will only be an exercise in futile and wastage of precious time of the Court.

7. Accordingly, in terms of the settlement arrived at between the parties, FIR No.681/2015 under Sections 354-A/354/509/323/34 IPC and FIR No.754/2015 under Sections 323/341/354/506/34 IPC, PS Krishna Nagar, Delhi and consequential proceedings emanating therefrom are hereby quashed. The petition is allowed.

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


PRATIBHA RANI, J.

JULY 10, 2017

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