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

+ CRL.M.C. 2670/2017

SUNIL & ANR

..... Petitioners

Through: Petitioners in person

versus

THE STATE NCT OF DELHI & ANR

..... Respondents

Through: Ms.Kusum Dhalla, APP for the State
with SI Sunil Kumar, PS Govindpuri,
New Delhi with R-2 & R-3 in person

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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17.07.2017

Crl.M.A.11090/2017

1. Exemption allowed, subject to all just exceptions.
2. The application is disposed of.

CRL.M.C. 2670/2017

1. The present petition has been filed by the petitioners under Section 482 of the Code of Criminal Procedure praying for quashing of FIR No.101/2014, under Sections 452/323/427/509/34 IPC, registered at P.S. Govindpuri, Delhi and consequential proceedings arising therefrom.
2. In this case, it is a family dispute and FIR No.101/2014, under Sections 452/323/427/509/34 IPC, P.S. Govindpuri, Delhi has been got registered by Ms.Sunita, respondent No.2/complainant alleging that on

20th January, 2014 at 10:35 PM when she was at home with her daughter, Sunil, Ranjana and Sandhya together broke the bulbs of the stairs and outside, they cut the wires of the camera and broke it. They entered the house and started beating her and her daughter Anita and were abusing them. She alleged that on 19th January, 2014 also they came and fought with them.

3. During the pendency of the proceedings, the matter was referred to Mediation Cell, Saket Courts, New Delhi and on 12th May, 2015, parties arrived at an amicable settlement before Delhi Mediation Centre, Saket Courts New Delhi. Copy of the mediation settlement has been attached with this petition as Annexure E.

4. 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.”

5. Learned counsel for the petitioners submit that since the matter in dispute has been amicably settled between the parties, no purpose would be served in prosecuting the petitioners any more, therefore, the FIR may be quashed.

6. Respondent No.2/complainant is present in Court today and submits that she has settled the dispute before the Mediation Centre and does not wish to pursue the criminal case against the petitioners any further. She

further submits that she has no objection if the said FIR against the petitioners and all proceedings emanating therefrom may be quashed.

7. In view of the aforesaid 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.

8. Accordingly, in terms of the mediation settlement arrived at between the parties, FIR No.101/2014, under Sections 452/323/427/509/34 IPC, P.S. Govindpuri, Delhi and consequential proceedings arising therefrom are hereby quashed. The petition is allowed.

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

Crl.M.A.11089/2017 (stay)

In view of the above, the stay application is dismissed as infructuous.

PRATIBHA RANI, J.

JULY 17, 2017

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