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

+ **W.P.(CRL) 2358/2017**

MD DANISH

..... Petitioner

Through: **Mr.Chirag Khurana & Mr.Avinash
Trivedi, Advocates with petitioner in
person**

versus

STATE & ANR

..... Respondents

Through: **Mr.Ashish Aggarwal, ASC for the
State with Mr.Piyush Singhal, Adv.
with SI Manish Tyagi PS Anand
Parbat
Respondent No.2/complainant in
person**

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

21.08.2017

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1. By way of this writ petition filed under Article 226/227 of the Constitution of India read with Section 482 Cr.P.C., petitioner is seeking quashing of case FIR No.397/2016 under Sections 323/354/354D IPC and Section 12 of POCSO Act and consequential proceedings arising therefrom.

2. Briefly stating, the facts as mentioned in the FIR are that respondent No.2 made a complaint to the police wherein she alleged that she started chatting with the petitioner through whatsapp since 10th November, 2015

and he used to meet her at the bus stand of Route No.212. Despite her refusal to have friendship with him, he followed her and proposed her. On 23rd August, 2016 at about 2.30 p.m. when she was standing with another boy, namely, Abid at the bus stand, the petitioner came from behind and took their photographs. He took them in auto towards Ashok Park Main where without any reason he started beating her as a result of which she got injuries below eyes.

3. It is mentioned in the petition that during the pendency of the above FIR, the parties arrived at an amicable settlement vide Settlement cum Compromise Deed dated 29th July, 2017, which has been annexed with the petition as Annexure-B.

4. Learned counsel for the Petitioner submits that since the parties have resolved the dispute and have no grievance whatsoever left against each other, the FIR may be quashed.

5. Respondents No.2/Complainant is present in person and submit that she does not wish to pursue her complaint any further and she has no objection if the FIR in question is quashed.

6. On behalf of the State, learned APP submits that some cost must be imposed on the petitioner.

7. On behalf of the petitioner, it is submitted that he is ready to contribute the amount, considered reasonable by the Court, for the purpose of charity and benefit of that strata of society needing such help.

8. Offences punishable under Sections 323/354/354D IPC and Section 12 of POCSO Act are non-compoundable offences. 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 observed as under:-

“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.”

9. In view of the legal position laid down in *Gian Singh’s case* (Supra) and amicable settlement being 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 futility and wastage of precious time of the Court.

10. Accordingly, the petition is allowed and FIR No. 397/2016 under Sections 323/354/354D IPC and Section 12 of POCSO Act as well consequential proceedings arising therefrom are hereby quashed.

11. However, the petitioner is directed to deposit the cost of ₹50,000/- with the “Army Central Welfare Fund” at Director, Accounts Section, Room No.281B, Ceremonial and Welfare Directorate, Adjutant General’s Branch, South Block, Integrated HQ of MoD (Army), New Delhi, within eight weeks from today and proof thereof shall be filed by the Petitioner in the Registry.

12. A copy of this order be sent to the Director, Accounts Section, Room No.281B, Ceremonial and Welfare Directorate, Adjutant General's Branch, South Block, Integrated HQ of MoD (Army), New Delhi for information.

PRATIBHA RANI, J.

AUGUST 21, 2017
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