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

+ CRL.M.C. 3342/2017

MAHESH CHAND

..... Petitioner

Through: Mr.Ajay Raghav, Advocate.

versus

THE STATE NCT OF DELHI & ORS

..... Respondents

Through: Mr.Sanjeev Sabharwal, APP for the
State/R-1 with Inspector Meena
Yadav, PS Palam Village.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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24.08.2017

1. By way of this petition filed under Section 482 Cr.P.C. the petitioner is seeking quashing of FIR No.249/2016 under Section 493/495/506 IPC at PS Palam.
2. Notice. Learned APP as above accepts notice on behalf of the State.
3. The initial FIR 249/2016 was registered under Section 493/495/376/377/506/34 IPC at PS Palam, however, learned Sessions Court discharged the accused persons for the offence punishable under Section 376 and 376/511 IPC and remaining offences being triable by the Court of Magistrate were sent to the Court of the Magistrate for trial.
4. Now the petitioner has approached this Court for quashing of the FIR

249/2016 for offences punishable under Section 493/495/506 IPC.

5. Learned APP for the State has placed on record copy of the order passed in Crl.Rev.P.594/2017 wherein an order on discharge dated 29th March, 2017 passed by the learned Sessions Court, discharging the accused persons for the offence punishable under Section 376 and 376/511 IPC, has been challenged by the State and the matter is listed on 17th September, 2017 before this Bench.

6. In the case of ***Gian Singh v State of Punjab & Anr.2012 (9) SCALE 257***, the Apex Court has laid down the guidelines for exercise of powers under Section 482 Cr.P.C. while considering the prayer for quashing of proceedings. Para 57 of the report reads 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.”

7. In view of the above settled legal position enumerated in **Gian Singh’s case** (Supra), and since the order on discharge for offence punishable under Section 376 and 376/34 IPC, I am of the considered view, this Court cannot exercise its inherent power to quash the FIR/criminal proceedings against the Petitioner. The petition is hereby dismissed.

PRATIBHA RANI, J.

AUGUST 24, 2017/ ‘hkaur’