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

+ CRL.M.C. 3699/2017

HITENDER MANN & ORS

..... Petitioners

Through: Mr.Harish Mann, Advocate with
petitioners in person

versus

THE STATE & ANR

..... Respondents

Through: Mr.Sanjeev Sabharwal, APP for the
State with SI Md. Imteyaz Khan
PS Shahabad Dairy
Respondent No.2 in person

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER
12.09.2017

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CRL.M.A.15054/2017

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

CRL.M.C. 3699/2017

1. The present petition has been filed by the Petitioners under Section 482 Cr.P.C. for quashing of FIR No.337/2013, under Sections 498-A/406/354/34 IPC registered at P.S. Shahbad Dairy, Delhi and proceedings emanating therefrom against the petitioners.

2. Briefly stating the facts of the present case are that Respondent No.2 was got married to Petitioner No.1 on 6th July, 2011 at Delhi according to Hindu rites and ceremonies. Due to temperamental and other differences,

the Petitioner No.1 and Respondent No.2 could not live together. They started living separately since 29th May, 2012. On 18th June, 2013, Respondent No.2 filed a complaint against the petitioners with CAW Cell on the basis of which FIR in question was registered. It is mentioned in the petition that during the pendency of above proceedings, both the parties have amicably settled all their disputes and claims against each other as per the Memorandum of Settlement dated 4th October, 2016 and copy of the same has been annexed with the petition as Annexure-P1.

4. The para no.2 of the Memorandum of Settlement dated 4th October, 2016 reads as under:-

“2. That the first party/husband has agreed that he has no objection in case the remaining amount of ₹2,40,000/- is withdrawn by the second party/wife from the Hon'ble Court in Rohini at the time of quashing of the FIR No.337/2013 PS Shahbad Dairy u/s 498A/406/354/34 IPC titled “State Vs. Hitender Mann etc.” and the first party/husband has agreed to give his no objection in writing and also by appearing in person before the Hon'ble concerned Court as and when required in this regard and it is further agreed that the second party/wife will have the right to retain the amount of ₹3,60,000/- withdrawn by her from the amount of ₹ 6 lacs deposited by the first party/husband as mentioned above and the first party/husband will not raise any objection in future in this regard.”

5. Respondent No.2 is present in person and submits that she has settled the matter with the Petitioners in terms of said settlement and **as per para No.2 of the Memorandum of Settlement dated 4th October, 2016, she can withdraw the remaining amount of ₹2,40,000/-.** Respondent No.2 further submits that she has no objection if the FIR in question is quashed qua the Petitioners.

6. The FIR registered against the present Petitioners is for committing the offences punishable under Sections 498-A/406/354/34 IPC. Offence punishable under Section 498-A IPC is a non-compoundable offence. 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-dominatingly 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 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.

8. Accordingly, the petition is allowed and FIR No.337/2013, under Sections 498-A/406/354/34 IPC registered at P.S. Shahbad Dairy, Delhi and consequential proceedings arising therefrom are hereby quashed. The parties shall abide by the terms and conditions of the Memorandum of Settlement dated 4th October, 2016, copy of which is placed on record as Annexure-P1. Respondent No.2 can withdraw the balance amount of ₹2,40,000/- as mentioned in para No.2 of the Memorandum of Settlement dated 4th October, 2016.

Order dasti.

PRATIBHA RANI, J.

SEPTEMBER 12, 2017

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