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

+ **W.P.(CRL) 3249/2017**

ISHRAT ALI RAHAMAT ALI SHAH & ORS Petitioners
Through: **Mr.Nasimuddin, Advocate**

versus

THE STATE GOVT OF NCT OF DELHI & ANR Respondents
Through: **Ms.Srilina Roy, Advocate for**
Ms.Nandita Rao, ASC for the State
with W/SI Neetu, PS Gokalpuri
Mr.Nazim Hussain, Advocate for R-2

CORAM:
HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER
% **21.11.2017**

CRL.M.A.19128/2017

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

W.P.(CRL.) 3249/2017

1. By way of this writ petition filed under Article 226 of the Constitution of India read with Section 482 Cr.P.C., the petitioner is seeking quashing of the FIR No.488/2016, registered under Section 376/506/34 IPC at PS Gokul Puri and proceeding emanating therefrom.
2. Notice. Learned counsel as above accepts notice on behalf of the State.

3. The present FIR No.488/2016, under Section 376/506/34 IPC has been registered at PS Gokul Puri on the complaint of 'S' (name withheld to conceal her identity) against the petitioners.

4. 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 CrPC 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.”

5. In view of the above settled legal position enumerated in **Gian Singh’s case** (Supra), I am of the considered view that in an FIR registered with allegations of rape, this Court cannot exercise its inherent power to quash the FIR/criminal proceedings against the Petitioner.

6. The petition is hereby dismissed.

PRATIBHA RANI, J.

NOVEMBER 21, 2017

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