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

+ W.P. (CRL.) 832/2020, Crl. M.A. 6639/2020

NITIN GUPTA

.....Petitioner

Through: Mr. Lal Singh Thakur, Adv.

versus

STATE & ORS.

.....Respondents

Through: Ms. Kamna Vohra, ASC for State with SI
Sudhir Rathree, P.S. Moti Nagar.

CORAM:

HON'BLE MR. JUSTICE A.K. CHAWLA

ORDER

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02.06.2020

(Video Conference Hearing)

Crl. M.A. 6639/2020 (Exemption)

Allowed, subject to just exceptions.

W.P. (CRL.) 832/2020

By the instant petition preferred under Article 226 of the Constitution of India read with Section 482 Cr.P.C., the original petitioner – Ms. Niti Gupta sought quashing of FIR No.179/2019 under Sections 354/354-A/323/506/509/34 IPC P.S. Moti Nagar. Her husband – Mr. Nitin Gupta and her father-in-law and mother-in-law were impleaded as the respondent nos. 2 to 4 in the petition so originally instituted. The petition so preferred proceeded on the premise that the matrimonial disputes were amicably settled amongst the parties and the petitioner – Ms. Niti Gupta, was now living

peacefully at her matrimonial house along with her husband and the in-laws. On the matter coming up before the Court on 21.05.2020, Id. Counsel for the original petitioner – Ms. Niti Gupta, had undertaken to transpose the said respondents as the petitioners and file an appropriate affidavit besides filing the amended Memo of Parties. In pursuance of the directions so given, the amended Memo of Parties has been filed. Their affidavits are also on record.

On the last date of hearing i.e. 27.05.2020 status report was also directed to be filed by the I.O. It has come to be filed as regards the purported settlement. As per the status report filed, all the petitioners as per the amended Memo of Parties i.e. the complainant, her husband, father-in law and mother-in-law are stated to be living together happily at their residence at House No.C-107, Maharana Pratap Enclave, Pitam Pura, New Delhi, without any pressure. In the status report it also comes to be stated that though the investigations are concluded and the challan is prepared, it could not be filed due to the lockdown.

It does not require any elaboration that the subject FIR is the outcome of matrimonial disputes, which disputes, as of today, are stated to have been resolved amongst the parties amicably and without any pressure. In the given situation, assuming, the challan comes to be filed and on such filing cognizance of commission of some offence is taken by the Magistrate, it is highly improbable that trial thereof would result into any positive consequence inasmuch as the parties are closely related to each other and have now resolved their disputes and differences amongst themselves. In the given factual conspectus, especially the fact that the allegations made are the outcome of matrimonial discord at some stage, the Court is of the considered

view that quashing of the FIR would not result into casualty of law. In ***Narinder Singh & Ors vs. State of Punjab***’ (2014) 6 SCC 466, the Supreme Court observed, as follows:-

“14. As to under what circumstances the criminal proceedings in a non-compoundable case be quashed when there is a settlement between the parties, the Court provided the following guidelines:

“Where the High Court quashes a criminal proceeding having regard to the facts that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape, dacoity, etc. or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavor having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to

dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.”

Thereafter, the Court summed up the legal position in the following words:

“The position that emerges from the above discussion can be summarized 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 plentitude with no statutory limitation but it has to be exercised in accord with the guidelines 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 FIR may be exercised where the offender and the 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 a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the 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 predominatingly civil flavor stand on a 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, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the 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 or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

In view of the ratio of the judgment (supra), especially the foregoing observations, the instant petition is allowed and the subject FIR No.179/2019 under Sections 354/354-A/323/506/509/34 IPC P.S. Moti Nagar, is quashed.

Writ petition stands disposed of accordingly.

A.K. CHAWLA, J

JUNE 02, 2020

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