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

% Date of Decision: 17th December, 2021

+ **W.P.(CRL.) 2137/2021**

DALBIR SINGH & ORS. Petitioner
Represented by: Mr.Vikrant Chowdhary, Mr.Pradeep
Chowdhary, Advocate (through VC).

Versus

STATE GNCT OF DELHI AND ANR Respondent
Represented by: Ms.Kamna Vohra, ASC for the State
with Inspector Hari Singh, P.S.Tilak
Nagar.

CORAM:
HON'BLE MS. JUSTICE MUKTA GUPTA

JUDGMENT : (ORAL)

1. By this petition, the five petitioners namely Dalbir Singh, Satbir @ Kaptan, Geeta, Ritika Godala @ Ritu and Lalita @ Choti seek quashing of FIR No. 677/2021 under Sections 498A/304B/34 IPC registered at P.S-Tilak Nagar on the complaint of respondent No.2 and the proceedings pursuant thereto on the ground that the parties have entered into a settlement.

2. In the above-noted FIR, the respondent No. 2 stated that his daughter got married to the petitioner No. 1 on 31st March 2021 and it was an arranged marriage. The petitioner No. 1 was unemployed and thus, his

parents used to bear the expenses. After the marriage, in-laws of his daughter started demanding dowry though no dowry was demanded at the time of marriage and the respondent No. 2 had performed the marriage as per his capacity. After the marriage, his daughter was harassed by her husband, mother-in-law, brother-in-law Kaptan and the two nieces and they used to demand motorcycle in dowry and on every small little issue, used to taunt the daughter of the complainant. Complainant's daughter came to his house on 22nd August 2021 and she was very upset. When his wife asked the daughter, she stated that she was upset because her husband, brother-in-law, mother-in-law and the two nieces trouble her and thereafter, she went to her in-laws house. 4-5 days prior to the Rakhi, the complainant had made his daughter and son-in-law understand that they should not fight, however, no settlement could be arrived at. On 30th August 2021 at 8.30 pm, a phone call was received on the phone of his son and the mother-in-law of his daughter stated that his daughter had committed suicide. During the pendency of investigation, petitioners and the respondent No. 2 entered into a memorandum of understanding dated 23rd September 2021, copy whereof is annexed as Annexure-C to the present petition. The terms of settlement note that the parties have entered into a settlement without any coercion and without any transfer of money. The respondent No. 2 has agreed that he has no claim and grievance against the petitioners and will cooperate in the quashing petition preferred before this Court as also make sincere efforts in getting the petitioners released on bail and that the parties have no grudges left against each other.

3. Learned Additional Standing Counsel for the State submits that petitioner No. 1 is presently in judicial custody and the anticipatory bail

application filed by the petitioner Nos. 3 and 4 namely Geeta has already been dismissed on 22nd September 2021 by learned ASJ. Learned Additional Standing Counsel for the State submits that after investigation, a charge sheet has been filed keeping the petitioner No. 1 namely Dalbir Singh and petitioner No.3 Geeta in column No. 11, whereas, petitioner No. 2 Satbir @ Kaptan and petitioner Nos. 4 and 5 namely Ritika and Lalita who are the two nieces have been kept in column No. 12.

4. Therefore, as regards petitioner Nos. 2,4 and 5 are concerned, no relief of quashing of FIR is required to be passed qua them as they have been kept in column No.12 and in case they are summoned by the Court, the same will be a separate cause of action which they can challenge. Thus the issue in the present petition is whether the FIR and proceedings pursuant thereto can be quashed for an offence punishable under Section 304-B IPC qua the petitioner No.1 and 3 on the basis of compromise.

5. Learned counsel for the petitioners seeking quashing of the FIR in question and the proceedings pursuant thereto relies upon the decision of Punjab and Haryana High Court in Kawaljit Kaur and Another Vs. State of Punjab and Others decided on 27th November 2017, wherein, the learned Single Judge of Punjab and Haryana High Court, though noted that the offences punishable under Sections 306 and 304B IPC are of grave nature, however, in view of the decision of the Hon'ble Supreme Court reported as (2014) 6 SCC 466 Narinder Singh and Others Vs. State of Punjab and Another, quashed the FIR and the proceedings pursuant thereto as no useful purpose would be served in continuing the FIR.

6. In Narinder Singh and Others (supra), a two Judge Bench of the Hon'ble Supreme Court was dealing with offence punishable under Section

307 IPC and in the said context observed that in respect of offences against the society, it is the duty of the State to punish the offender and even when there is a settlement, the view of the offender and victim will not prevail since it is in the interest of society that the offender should be punished to deter others from committing a similar crime. On the other hand, there may be offences falling in the category where the correctional objective of criminal law would have to be given more weightage than the theory of deterrence. In such a case, the Court may be of the opinion that a settlement between the parties would lead to better relations between them and would resolve private disputes. In the said case the investigation was in its infancy and the settlement was arrived at immediately after the alleged commission of offence. Hon'ble Supreme Court also noted that from the FIR, it is evident that the complainant was allegedly attacked by the accused persons because of some previous dispute between the parties and with the intervention of the elders of the village including Sarpanch, parties have not only buried their hatchet but decided to live peacefully in future which becomes an important consideration. Thus even if the nature of injury could be proved by producing the doctor, it would be difficult to prove as to who caused the injuries. Therefore, the chances of conviction appear to be remote.

7. Subsequently, a three Judge Bench of the Hon'ble Supreme Court in the decision (2017) 9 SCC 641 Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur & Ors. Vs. State of Gujarat & Anr. has clearly laid down that where serious and grave offences are involved, the quashing of FIR cannot be allowed on the basis of the compromise. The Hon'ble Supreme Court laid down the following broad principles which emerged from precedents in respect of the inherent power of the High Court to quash

the first information report or the criminal proceedings as under:-

"16.1. Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court.

16.2. The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

16.3. In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.

16.4. While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court.

16.5. The decision as to whether a complaint or first information report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated.

16.6. In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.

16.7. As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned.

16.8. Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

16.9. In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

16.10. There is yet an exception to the principle set out in propositions 16.8. and 16.9. above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance."

8. Thus, this Court, is not in conformity with the view taken by the learned Single Judge of the Punjab and Haryana High Court and is of the considered opinion that the case of Narinder Singh and Others (supra) will have no application in the cases where offences of serious nature are involved. In the present case a woman has committed suicide within five months of the marriage due to the harassment caused by the husband and his family members and the offence punishable under Section 304-B IPC is not only a grave and heinous offence but an offence against the society actuated by the social evil of demand of dowry, thus needs deterrence and, therefore, cannot be quashed on the basis of settlement arrived at between the

accused and the complainant.

9. Petition is dismissed.

10. Order be uploaded on the website of this Court.

(MUKTA GUPTA)
JUDGE

DECEMBER 17, 2021/akb