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

+ **CRL.M.C. 1657/2016**

MUKESH KUMAR

..... Petitioner

Through

Mr. Akhilesh Kumar Pandey, Adv.
with petitioner in person

versus

THE STATE (GOVT OF NCT OF DELHI) & ANR..... Respondent

Through

Mr. Panna Lal Sharma, APP for State
with SI Satish Kumar, PS Aman
Vihar.

Mr. Ajay Kumar, Adv. for R2 with
R2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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06.12.2017

In terms of the proceeding dated 27.02.2017, costs of Rs.5,000/- have been paid by the petitioner to the learned counsel for the respondent no. 2.

Vide the present petition, the petitioner Mukesh Kumar s/o Late Sh. Pitar Mahto seeks quashing of the FIR No. 176/11, registered at PS Aman Vihar, under Sections 498A/406/34 of the Indian Penal Code, 1860 submitting to the effect that a settlement has been arrived at between him and the respondent no. 2 Veena d/o Sh. Dwarka Prasad and the marriage between him and the respondent no. 2 Veena d/o Sh. Dwarka Prasad has been dissolved vide a decree of divorce dated 14.08.2015 of the Court of Judge Family Court-03, Rohini Courts, Delhi in HMA No. 622/15.

The Investigating Officer has identified the petitioner Mukesh Kumar s/o Late Sh. Pitar Mahto as being the accused in relation to the FIR No. 176/11, registered at PS Aman Vihar, under Sections 498A/406/34 of the

Indian Penal Code, 1860. He has also identified the respondent no. 2 Veena d/o Sh. Dwarka Prasad present today in the court i.e. the complainant of the FIR No. 176/11, registered at PS Aman Vihar, under Sections 498A/406/34 of the Indian Penal Code, 1860.

The respondent no. 2 on examination by the Court has affirmed that a settlement has been arrived at between her and the petitioner Mukesh Kumar and the marriage between her and the petitioner Mukesh Kumar has been dissolved vide a decree of divorce dated 14.08.2015 of the Court of Judge Family Court-03, Rohini Courts, Delhi in HMA No. 622/15. The respondent no. 2 has testified to the effect that as per the settlement arrived at between her and the petitioner Mukesh Kumar, the minor daughter named Palak born out of the wedlock between her and the petitioner Mukesh Kumar is in her custody and that in terms of the settlement arrived at between her and the petitioner Mukesh Kumar, she has received a sum of Rs.10.5 lacs. The respondent no. 2 also testified to the effect that the Counselling Cell Settlement bears her signatures thereon at points-A on each page on Ex.CW1/A and that the copy of the decree of divorce dated 14.08.2015 of the Court of Judge Family Court-03, Rohini Courts, Delhi in HMA No. 622/15 is Ex.CW1/B and that in terms of the Counselling Cell Settlement Ex.CW1/A, she has received two Demand Drafts bearing nos. 009586 dated 27.09.2017 and 009519 dated 11.09.2017 amounting to Rs.1.5 lacs each both in her favour drawn on Axis Bank Ltd. photocopies of which are Ex.CW1/C and Ex.CW1/D and that she has no opposition to the prayer made by the petitioner Mukesh Kumar seeking quashing of the FIR No. 176/11, registered at PS Aman Vihar, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all proceedings emanating therefrom. She also

testified that she does not seek any action against Pitar Mahto, Kamla Devi, Umesh Mahto and Arti Devi also named by her in the FIR No. 176/11, registered at PS Aman Vihar, under Sections 498A/406/34 of the Indian Penal Code, 1860 and that she has made her statement voluntarily of her own accord without any duress or coercion from any quarter.

Learned APP for the State also in the circumstances of the case does not oppose the prayer made by the petitioners seeking quashing of the FIR No. 176/11, registered at PS Aman Vihar, under Sections 498A/406/34 of the Indian Penal Code, 1860.

Taking into account that in her statement the respondent no. 2 on examination by the Court has affirmed that a settlement has been arrived at between her and the petitioner Mukesh Kumar and the marriage between her and the petitioner Mukesh Kumar has been dissolved vide a decree of divorce dated 14.08.2015 of the Court of Judge Family Court-03, Rohini Courts, Delhi in HMA No. 622/15 and the factum that as per the settlement arrived at between her and the petitioner Mukesh Kumar, the minor daughter named Palak born out of the wedlock between her and the petitioner Mukesh Kumar is in the custody of the respondent No.2 and that in terms of the settlement arrived at between her and the petitioner Mukesh Kumar, she has received a sum of Rs.10.5 lacs and further the factum that the respondent no. 2 also testified to the effect that the Counselling Cell Settlement bears her signatures thereon at points-A on each page on Ex.CW1/A and that the copy of the decree of divorce dated 14.08.2015 of the Court of Judge Family Court-03, Rohini Courts, Delhi in HMA No. 622/15 is Ex.CW1/B and that in terms of the Counselling Cell Settlement Ex.CW1/A, she has received two Demand Drafts bearing nos. 009586 dated 27.09.2017 and 009519 dated

11.09.2017 amounting to Rs.1.5 lacs each both in her favour drawn on Axis Bank Ltd. photocopies of which are Ex.CW1/C and Ex.CW1/D and that she has no opposition to the prayer made by the petitioner Mukesh Kumar seeking quashing of the FIR No. 176/11, registered at PS Aman Vihar, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all proceedings emanating therefrom. She also testified that she does not seek any action against Pitar Mahto, Kamla Devi, Umesh Mahto and Arti Devi also named by her in the FIR No. 176/11, registered at PS Aman Vihar, under Sections 498A/406/34 of the Indian Penal Code, 1860 and that she has made her statement voluntarily of her own accord without any duress or coercion from any quarter, in view of the verdict of the Hon'ble Supreme Court in ***Gian Singh vs. State of Punjab & Another***, (2012) 10 SCC 303, to the effect : -

*“58..... 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 flavour 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.” [Refer to B.S. Joshi, (2003) 4 SCC 675; Nikhil Merchant, (2008) 9 SCC 677 and Manoj Sharma, (2008) 16 SCC 1.]”

(emphasis supplied)

it is thus considered appropriate in the interest of justice as the matrimonial discord between the petitioner and the respondent No.2 has since been resolved vide a decree of divorce dated 14.8.2015 in HMA No.622/15 that the prayer made by the petitioners seeking quashing of the FIR No. 176/11, registered at PS Aman Vihar, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom is allowed against the petitioners named here-in-above, which is thus accordingly allowed, and the FIR No. 176/11, registered at PS Aman Vihar, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefore are quashed.

The petition is disposed of.

ANU MALHOTRA, J

DECEMBER 06, 2017/MK