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

+ **CRL.M.C. 4429/2017**

RAVI @ HARI KISHAN & ORS

..... Petitioner

Through Mr. Sushant Mukund, Adv. with P1 to
P9 in person.

versus

STATE OF NCT OF DELHI & ANR

..... Respondent

Through Mr. Kamal Kr. Ghei, APP for State
with SI Shri Gopal, PS Shakar Pur.
R2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **06.12.2017**

Vide the present petition the petitioner no. 1 Ravi @ Hari Kishan s/o Late Sh. Diwan Chand, the petitioner no. 2 Smt. Sheela Devi w/o Late Sh. Diwan Chand, the petitioner no. 3 Vijay @ Vinay s/o Late Sh. Diwan Chand, the petitioner no. 4 Ms. Dhnesht d/o Late Sh. Diwan Chand, the petitioner no. 5 Raj Kumar s/o Sh. Suraj Pal, the petitioner no. 6 Mr. Sanju w/o Sh. Raj Kumar, the petitioner no. 7 Bal Mukund s/o Sh. Hari Singh, the petitioner no. 8 Mr. Anju w/o Sh. Bal Mukund and the petitioner no. 9 Mr. Savita @ Rajni w/o Sh. Harish seeks quashing of the FIR No. 276/2014, registered at Shakarpur, under Sections 498A/406/34 of the Indian Penal Code, 1860 submitting to the effect that the respondent no. 2 is living with the petitioner no. 1 Ravi @ Hari Kishan s/o Late Sh. Diwan Chand and her in-laws i.e. the petitioner no. 2 Smt. Sheela Devi w/o Late Sh. Diwan Chand, the petitioner no. 3 Vijay @ Vinay s/o Late Sh. Diwan Chand, the petitioner no. 4 Ms. Dhnesht d/o Late Sh. Diwan Chand, the petitioner no. 5 Raj Kumar s/o Sh. Suraj Pal, the petitioner no. 6 Mr. Sanju w/o Sh. Raj Kumar, the

petitioner no. 7 Bal Mukund s/o Sh. Hari Singh, the petitioner no. 8 Mr. Anju w/o Sh. Bal Mukund and the petitioner no. 9 Mr. Savita @ Rajni w/o Sh. Harish and a minor child has been born out of the wedlock between the petitioner no. 1 and the respondent no. 2.

Vide directions dated 24.11.2017 in the present petition, the Investigating Officer was directed to verify the averments made in the petition and the stated factum of the petitioner no. 1 and the respondent no. 2 residing together for the last three years and also the birth certificate bearing registration no. MCDOLIR-00115-0067475 in relation to which the status report dated 04.12.2017 of the SHO PS Shakarpur has been submitted verifying the said submissions made on behalf of the petitioner no. 1 and the respondent no. 2 qua the petitioner no. 1 and the respondent no. 2 living together and also of the birth of the minor child of the petitioner no. 1 and the respondent on 28.11.2015.

The Investigating Officer has also identified the petitioner no. 1 Ravi @ Hari Kishan s/o Late Sh. Diwan Chand, the petitioner no. 2 Smt. Sheela Devi w/o Late Sh. Diwan Chand, the petitioner no. 3 Vijay @ Vinay s/o Late Sh. Diwan Chand, the petitioner no. 4 Ms. Dhresh d/o Late Sh. Diwan Chand, the petitioner no. 5 Raj Kumar s/o Sh. Suraj Pal, the petitioner no. 6 Mr. Sanju w/o Sh. Raj Kumar, the petitioner no. 7 Bal Mukund s/o Sh. Hari Singh, the petitioner no. 8 Mr. Anju w/o Sh. Bal Mukund and the petitioner no. 9 Mr. Savita @ Rajni w/o Sh. Harish as being the accused in relation to the FIR No. 276/2014, registered at Shakarpur, under Sections 498A/406/34 of the Indian Penal Code, 1860. He has also identified the respondent no. 2 Hina w/o Sh. Ravi @ Hari Kishan present today in the court i.e. the complainant of the FIR No. 276/2014, registered at Shakarpur, under

Sections 498A/406/34 of the Indian Penal Code, 1860.

The respondent no. 2 is also present today in the Court and has been examined by the Court and she has testified that her affidavit dated 27.09.2017 annexed to the petition bears her signature thereon at points-A and B on Ex.CW2/A, which she has signed voluntarily of her own accord without any duress or coercion from any quarter. She has further testified that she has been living with the petitioner no. 1 Ravi @ Hari Kishan s/o Late Sh. Diwan Chand and her in-laws i.e. the petitioner no. 2 Smt. Sheela Devi w/o Late Sh. Diwan Chand, the petitioner no. 3 Vijay @ Vinay s/o Late Sh. Diwan Chand, the petitioner no. 4 Ms. Dhnesht d/o Late Sh. Diwan Chand, the petitioner no. 5 Raj Kumar s/o Sh. Suraj Pal, the petitioner no. 6 Mr. Sanju w/o Sh. Raj Kumar, the petitioner no. 7 Bal Mukund s/o Sh. Hari Singh, the petitioner no. 8 Mr. Anju w/o Sh. Bal Mukund and the petitioner no. 9 Mr. Savita @ Rajni w/o Sh. Harish and she has no problems now. She has further testified that she wants to continue to live with the petitioner no. 1 and her in-laws and that she has no opposition to the prayer made by the petitioners seeking quashing of the FIR No. 276/2014, registered at Shakarpur, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all proceedings emanating therefrom. She has produced her original proof of identity in the form of I card and the photocopy of her Election Commission Identity Card is Ex.CW2/B.

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. 276/2014, registered at Shakarpur, under Sections 498A/406/34 of the Indian Penal Code, 1860.

Taking into account the statement made by the respondent no. 2 Hina

w/o Sh. Ravi @ Hari Kishan present today in the court i.e. the complainant of the FIR No. 276/2014, registered at Shakarpur, under Sections 498A/406/34 of the Indian Penal Code, 1860 and the factum that the respondent no. 2 is living with the petitioner no. 1 Ravi @ Hari Kishan s/o Late Sh. Diwan Chand and her in-laws i.e. the petitioner no. 2 Smt. Sheela Devi w/o Late Sh. Diwan Chand, the petitioner no. 3 Vijay @ Vinay s/o Late Sh. Diwan Chand, the petitioner no. 4 Ms. Dhnesht d/o Late Sh. Diwan Chand, the petitioner no. 5 Raj Kumar s/o Sh. Suraj Pal, the petitioner no. 6 Mr. Sanju w/o Sh. Raj Kumar, the petitioner no. 7 Bal Mukund s/o Sh. Hari Singh, the petitioner no. 8 Mr. Anju w/o Sh. Bal Mukund and the petitioner no. 9 Mr. Savita @ Rajni w/o Sh. Harish and that the minor child has been born out of the wedlock between the petitioner no. 1 and the respondent no. 2 and that the petitioner no. 1 and the respondent no. 2 have no problems now, 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 that the prayer made by the petitioners seeking quashing of the FIR No. 276/2014, registered at Shakarpur, 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. 276/2014, registered at Shakarpur, 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