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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 4410/2017

MOHD MUSTKEEM @ GUDDU Petitioner

Through: Ms.Naomi Chandra, Advocate

versus

STATE NCT OF DELHI & ORS Respondents

Through: Mr. Panna Lal Sharma, APP for State
with ASI Liyaqat Ali PS Sangam
Vihar for R- 1 and 2
Respondent No.3 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **20.12.2017**

Vide the present petition, the petitioner seeks quashing of the FIR No.747/2015 under Section 354(A)/354(D)/323 IPC, 1860 Police Station Sangam Vihar on the complaint of the respondent No.3 Manisha Gupta submitting to the effect that the respondent No.3 and the petitioner have since been married through a nikahnama on 28.3.2016 and they are living together.

The Investigating Officer of the case has identified the petitioner present today in Court and has identified the respondent No.3 as being the complainant of the FIR in question and states that she has now been married as per the nikahnama submitted by the Investigating Officer as forwarded by the SHO concerned pursuant to the proceedings dated 15.11.2017 to submit a verification report qua the stated factum of marriage between the petitioner and the respondent No.3 and qua the marriage, the status report has been submitted by the State qua the Nikahnama which is taken on record as EX.CW1/A . EX.CW-1/A indicates that the petitioner and the

respondent No.3 have been married on 28.3.2016 according to Islamic rites at the Madarsa Darul Uloom Siddiquiya, Lal Kuan, New Delhi.

The petitioner has produced the proof of his identity in the form of his Election Identity Card bearing No. ZXD2060408 copy of which is on the record as EX.CW-1/B. The respondent No.3 has produced her proof of identity in both of her names, i.e., her maiden name and the name after her marriage. The photocopy of the Aadhar Card of the respondent No.3 as Mehzabin bearing No. 202971901236 is EX.CW-1/C. The photocopy of the Aadhar Card of the respondent No.3 as Manisha Gupta bearing No.202971901236 is EX.CW-1/D.

The respondent No.3 on her examination by the Court has testified to the effect that she has married with the petitioner No.1 on 28.3.2016 after converting from Hinduism to Islam for the marriage and in view of her marriage with the petitioner she does not seek any further action against the petitioner in relation to the FIR No.747/2015 under Section 354(A)/354(D)/323 IPC, 1860 Police Station Sangam Vihar and she also does not seek that petitioner be punished and thus does not oppose the prayer made by the petitioner seeking quashing of the FIR. She has further testified to the effect that she has made her statement voluntarily of her own accord without any duress, pressure or coercion from any quarter.

The State also, in the circumstances, does not oppose the prayer made by the petitioner seeking quashing of the FIR No.747/2015 under Section 354(A)/354(D)/323 IPC, 1860 Police Station Sangam Vihar.

Taking into account the statement made by the respondent No.3

and the verification report submitted by the State through the SHO concerned and the nikahnama EX.CW-1/A on the record on which respondent No.3 has affirmed her signatures thereon at point A and which shows that she has signed in both names, i.e., Manisha Gupta and Mehajabin and that she has married the petitioner of her own accord without any duress, pressure or coercion from any quarter and that she does not oppose the prayer made by the petitioner seeking quashing of the FIR, there appears no reason to disbelieve her statement that she has made her statement voluntarily of her own accord without any duress, pressure or coercion from any quarter and to maintain peace and harmony between the parties and in the society as in not granting the prayer made by the petitioner, justice would itself become a casualty and 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.]”

and in view of the verdict of the Hon’ble Supreme Court in *Jitendra Raghuvanshi & Ors. Vs. Babita Raghuvanshi & Anr.* (2013) 4 SCC 58, to the effect : -

“15. In our view, it is the duty of the courts to encourage genuine settlements of matrimonial disputes, particularly, when the same are on considerable increase. Even if the offences are non-compoundable, if they relate to matrimonial disputes and the Court is satisfied that the parties have settled the same amicably and without any pressure, we hold that for the purpose of securing ends of justice, Section 320 of the Code would not be a bar to the exercise of power of quashing of FIR, complaint or the subsequent criminal proceedings.

16. There has been an outburst of matrimonial disputes in recent times. They institution of marriage

occupies an important place and it has an important role to play in the society. Therefore, every effort should be made in the interest of the individuals in order to enable them to settle down in life and live peacefully. If the parties ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law, in order to do complete justice in the matrimonial matters, the courts should be less hesitant in exercising their extraordinary jurisdiction. It is trite to state that the power under Section 482 should be exercised sparingly and with circumspection only when the Court is convinced, on the basis of material on record, that allowing the proceedings to continue would be an abuse of process of court or that the ends of justice require that the proceedings ought to be quashed....”

(emphasis supplied)

in the interest of justice the petitioner seeking the quashing of the FIR No.747/2015 under Section 354(A)/354(D)/323 IPC, 1860 Police Station Sangam Vihar and all consequential proceedings emanating therefrom against the petitioner is thus accordingly allowed, and the FIR No.747/2015 under Section 354(A)/354(D)/323 IPC, 1860 Police Station Sangam Vihar and all consequential proceedings emanating therefrom against the petitioner are quashed.

The petition is disposed of.

ANU MALHOTRA, J

DECEMBER 20, 2017/sv

IN THE HIGH COURT OF DELHI: NEW DELHI

Item No. 4

CrI. M.C. 4410/2017

MOHD.MUSTKEEM @ GUDDU Vs. STATE & ORS.

20.12.2017

**CW-2 MEHJABEEN PREVIOUSLY KNOWN AS MANISHA GUPTA
W/O MOHD. MUSTKEEM D/O RAVINDRA GUPTA AGE 21
YEARS, A-232, TIGRI, J.J. COLONY, PRESENTLY R/O I-55,
J.J.CAMP, TIGRI, DELHI.
ON S.A.**

I have studied till 12th standard and I am a housewife.

I got married to the petitioner Mohd. Mustkeem @ Guddu on 28.3.2016 and the Nikahnama on the record EX.CW-1/A bears my signatures thereon at point A. I have converted from Hinduism to Islam for the marriage.

In view of the marriage between me and the petitioner I do not seek the prosecution of the petitioner any further in relation to the FIR No.747/2015 under Section 354(A)/354(D)/323 IPC, 1860 Police Station Sangam Vihar nor I want the petitioner to be punished. I do not oppose the prayer made by the petitioner seeking quashing of the FIR No.747/2015 under Section 354(A)/354(D)/323 IPC, 1860 Police Station Sangam Vihar.

I have married the petitioner of my own accord without any duress, pressure or coercion from any quarter.

I have made the statement voluntarily of my own accord without any duress, pressure or coercion from any quarter.

RO & AC

ANU MALHOTRA, J

IN THE HIGH COURT OF DELHI: NEW DELHI

Item No. 4

Crl. M.C. 4410/2017

MOHD.MUSTKEEM @ GUDDU Vs. STATE & ORS.

20.12.2017

**CW-1 SI LIYAQAT ALI POLICE STATION SANGAM VIHAR
ON S.A.**

I identify the petitioner Mohd.Mustkeem @ Guddu as being the sole accused in relation to the FIR No.747/2015 under Section 354(A)/354(D)/323 IPC, 1860 Police Station Sangam Vihar and the respondent No.3 Manisha Gupta, as being the complainant of the FIR No.747/2015 under Section 354(A)/354(D)/323 IPC, 1860 Police Station Sangam Vihar present in the Court today. I have verified the Nikahnama dated 28.3.2016 from the Madarsa Darul Uloom Siddiquiya, Lal Kuan, New Delhi and the stated Naikahnama between the petitioner and the respondent No.3 is on the record as EX.CW-1/A. The respondent No.3 as per the Nikahnama is named as Mehjabeen.

The original Aadhar Card of the petitioner Mohd. Mustkeem bearing No.4312505039771 has been produced. The photocopy of the same be submitted. The photocopy of the Election Identity Card of the petitioner Mohd. Mustkeem bearing No. ZXD2060408 is on the record as EX.CW-1/B (OSR). The photocopy of the Aadhar Card of the respondent No.3 as Mehzabin bearing No. 202971901236 is EX.CW-1/C. The photocopy of the Aadhar Card of the respondent No.3 as Manisha Gupta bearing No.202971901236 is EX.CW-1/D (OSR). Apart from the petitioner, no other person/persons is/are arrayed as the accused in relation to the present FIR No.747/2015 under Section 354(A)/354(D)/323 IPC, 1860 Police Station Sangam Vihar.

**RO & AC
MALHOTRA, J**

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