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

+ CRL.M.C. 4742/2017 CRL.M.A. 18888/2017

VIJAY DABAS & ORS

..... Petitioner

Through

Ms. Tanuja Mahajan, Adv. with P1 to
P5 in person.

versus

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

Through

Mr. Izhar Ahmad, APP for State with
ASI Bhagwati Prasad, PS Nangloi
R2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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06.12.2017

Vide the present petition the petitioner no. 1 Vijay Dabas s/o Late Sh. Mahender Singh, the petitioner no. 2 Smt. Hoshiari Devi w/o Late Sh. Mahender Singh, the petitioner no. 3 Jaiveer s/o Sh. Karan Singh, the petitioner no. 4 Smt. Babita w/o Sh. Jaiveer and the petitioner no. 5 Smt. Geeta w/o Sh. Aman Singh seek quashing of the FIR No. 993/06, registered at PS Nangloi, under Sections 498A/406/34 of the Indian Penal Code, 1860 submitting to the effect that the respondent no. 2 Smt. Saroj Devi has settled the matter with the petitioners vide Settlement / Agreement dated 03.09.2015 recorded at the Delhi Mediation Centre, Rohini District Courts, Delhi.

The Investigating Officer has also identified petitioner no. 1 Vijay Dabas s/o Late Sh. Mahender Singh, the petitioner no. 2 Smt. Hoshiari Devi w/o Late Sh. Mahender Singh, the petitioner no. 3 Jaiveer s/o Sh. Karan Singh, the petitioner no. 4 Smt. Babita w/o Sh. Jaiveer and the petitioner no. 5 Smt. Geeta w/o Sh. Aman Singh as being the accused in relation to the

FIR No. 993/06, registered at PS Nangloi, under Sections 498A/406/34 of the Indian Penal Code, 1860. He has also identified the respondent no. 2 Smt. Saroj Devi w/o Sh. Vijay Dabas present today in the court i.e. the complainant of the FIR No. 993/06, registered at PS Nangloi, under Sections 498A/406/34 of the Indian Penal Code, 1860. Photocopies of the proof of the identity in the form of Aadhar cards of the petitioners no. 2, 4 & 5 and the respondent no. 2 are Ex. CW1/A to Ex. CW1/D respectively.

The respondent no. 2 on examination by the Court and in reply to a specific Court query has affirmed that she has settled the matter with the petitioners vide Settlement / Agreement dated 03.09.2015 recorded at the Delhi Mediation Centre, Rohini District Courts, Delhi bearing her signatures thereon at point-A on each page which she stated that she has signed the same voluntarily of her own accord without any duress or coercion from any quarter and that she has two children, aged 20 years and 21 years out of the wedlock of the petitioner no. 1 and herself and both the children live with her and that she is living with the petitioner no. 1 for the last two and half years. The respondent no. 2 further affirms that her affidavit dated 16.11.2017 annexed to the petition bears her signature thereon at points-A and B on Ex.CW2/B, which she has signed voluntarily of her own accord without any duress or coercion from any quarter and that she affirms the contents of her affidavit dated 16.11.2017 annexed to the petition as Ex.CW2/B. The respondent no.2 in her statement has testified that she has no opposition to the prayer made by the petitioner no. 1 Vijay Dabas s/o Late Sh. Mahender Singh, the petitioner no. 2 Smt. Hoshiari Devi w/o Late Sh. Mahender Singh, the petitioner no. 3 Jaiveer s/o Sh. Karan Singh, the petitioner no. 4 Smt. Babita w/o Sh. Jaiveer and the petitioner no. 5 Smt.

Geeta w/o Sh. Aman Singh seeking quashing of the FIR No. 993/06, registered at PS Nangloi, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all proceedings emanating therefrom and that she has made the 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. 993/06, registered at PS Nangloi, under Sections 498A/406/34 of the Indian Penal Code, 1860.

Taking into account the statement made by the respondent no. 2 who on examination by the Court and in reply to a specific Court query has affirmed that she has settled the matter with the petitioners vide Settlement / Agreement dated 03.09.2015 recorded at the Delhi Mediation Centre, Rohini District Courts, Delhi bearing her signatures thereon at point-A on each page which she stated that she has signed the same voluntarily of her own accord without any duress or coercion from any quarter and the factum that the respondent no. 2 has two children, aged 20 years and 21 years out of the wedlock of the petitioner no. 1 and herself and both the children live with her and that she is living with the petitioner no. 1 for the last two and half years and that the respondent no. 2 further affirms that her affidavit dated 16.11.2017 annexed to the petition bears her signature thereon at points-A and B on Ex.CW2/B, which she has signed voluntarily of her own accord without any duress or coercion from any quarter and that she affirms the contents of her affidavit dated 16.11.2017 annexed to the petition as Ex.CW2/B and that the respondent no.2 in her statement has testified that she has no opposition to the prayer made by the petitioner no. 1 Vijay Dabas

s/o Late Sh. Mahender Singh, the petitioner no. 2 Smt. Hoshiari Devi w/o Late Sh. Mahender Singh, the petitioner no. 3 Jaiveer s/o Sh. Karan Singh, the petitioner no. 4 Smt. Babita w/o Sh. Jaiveer and the petitioner no. 5 Smt. Geeta w/o Sh. Aman Singh seeking quashing of the FIR No. 993/06, registered at PS Nangloi, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all proceedings emanating therefrom, 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 for maintenance of peace and harmony between the petitioners and the respondent no. 2 that the prayer made by the petitioners seeking quashing of the FIR No. 993/06, registered at PS Nangloi, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioners named here-in-above is allowed which is thus accordingly allowed, and the FIR No. 993/06, registered at PS Nangloi, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom are quashed.

The petition is disposed of.

ANU MALHOTRA, J

DECEMBER 06, 2017/MK