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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 5364/2017**

PRAMOD KUMAR SHARMA & ORS Petitioners
Through: Mr.Awadh Kaushik, Advocate

versus

STATE (NCT OF DELHI) & ANR Respondents
Through: Mr. Kamal Kr. Ghei, APP for State
with W/ASI Anil Sharma, PS Vikas
Puri
Mr.____, Adv (appearance not given)
for Respondent No.2 with Respondent
No.2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **19.12.2017**

Learned counsel for the petitioners No.1 to 4 submits that the petitioner No.4 is unable to come as she is situated at Jaipur, Rajasthan with two minor children.

Vide the present petition, the petitioner seeks quashing of the FIR No.706/2015, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Vikas Puri, submitting to the effect that the marriage between the petitioners No.1 and the respondent No.2 has since been dissolved vide a decree of divorce through mutual consent dated 1.4.2017 in HMA No.530/2017 under Section 13(B) (2) of the Hindu Marriage Act, 1955. The true copy of which is on the record as EX.CW-2/C; that pursuant to the mediation settlement arrived at between the parties all disputes and claims between the

petitioners and the respondent No.2 have since been resolved and; that no useful purpose would be served by continuing the proceedings in relation to the FIR No.706/2015, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Vikas Puri.

The petitioners No. 1 to 3 have produced their proofs of identity, i.e., the Aadhar Cards, copies of which are on the record being EX.CW-1/A, EX.CW1/B and EX.CW1/C respectively. Respondent No.2 has produced her Aadhar Card, copy of which is EX.CW1/E. The Investigating Officer of the case is present in the Court and has identified the petitioners No.1 to 3 and the respondent No.2 present in the Court, and has also identified the photograph of the petitioner No.4 on the record, the photocopy of the Aadhar Card of the petitioner No.4 is EX.CW1/D, as being the other accused arrayed in the FIR and has stated that apart from these four petitioners no other persons are arrayed as accused in relation to the FIR No.706/2015, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Vikas Puri.

The respondent No.2, on her examination by the Court on oath has testified to being graduate and working in an IT company. *Inter alia*, she has testified to having signed her affidavit annexed to the petition EX.CW-2/A and has also testified to the effect that she has signed the mediation settlement dated 16.3.2016 arrived at by the Mediation Centre, Tis Hazari Courts, Delhi. The true copy of the mediation settlement dated 16.3.2016 is Ex.CW2/B. The respondent No.2 has further testified that pursuant to the settlement arrived at between her and the petitioners, she has received a sum of Rs.14 lacs

and the balance sum of Rs.7 lacs has been received by her today in Court vide a demand draft bearing No.003337 dated 9.11.2017 drawn on HDFC bank Limited in her favour. She has further testified to the effect that there are no claims of her left against the petitioner. The marriage between her and the petitioner No.1 has since been dissolved vide a decree of divorce through mutual consent dated 1.4.2017 in HMA No.530/2017 under Section 13(B) (2) of the Hindu Marriage Act, 1955. The true copy of which is on the record as EX.CW-2/C. It has also been stated by the respondent No.2 that there is no child of the wedlock between her and the petitioner No.1. She further stated that in view of the settlement arrived at between her and the petitioners, she does not seek any further action against the petitioners No.1 to 3 *namely*, Pramod Kumar Sharma, Kamal Kumar Sharma and Sushila Sharma (present in the Court) nor against the petitioner No.4, *namely*, Seema Goswami. Respondent No.2 further stated that she does not oppose the prayer made by the petitioners seeking quashing of the FIR No.706/2015, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Vikas Puri and all proceeding emanating therefrom and that she does not seek that the petitioners be punished. She further stated that she has made her statement voluntarily of her own accord without any duress, pressure or coercion from any quarter.

Learned APP for the State, in the circumstances, does not oppose the prayer made by the petitioners seeking quashing of the FIR.

Taking into account the averments made in the petition and the

statement made by the respondent No.2 and non-opposition on behalf of the State as there is nothing on the record to disbelieve the statement made by the respondent No.2 that she voluntarily of my own accord without any duress, pressure or coercion from any quarter and taking into account the factum that the FIR was got registered due to a matrimonial discord between the petitioner No.1 and the respondent No.2 which has since been resolved vide a decree of divorce through mutual consent dated 1.4.2017 in HMA No.530/2017 under Section 13(B) (2) of the Hindu Marriage Act, 1955 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. The 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 to put a quietus to the litigation between the parties so that the peace and harmony between them is restored in view thereof the FIR No.706/2015, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Vikas Puri and all consequential proceedings emanating therefrom against the petitioners which is thus accordingly allowed, and the FIR No.706/2015, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Vikas Puri and all consequential proceedings emanating therefrom are quashed against the petitioners.

The petition is disposed of.

ANU MALHOTRA, J

DECEMBER 19, 2017/sv

IN THE HIGH COURT OF DELHI: NEW DELHI

Item No. 41

CrI. M.C. 5364/2017

PRAMOD KUMAR SHARMA & ORS. Vs. STATE & ANR.

19.12.2017

**CW-2 POOJA SHARMA D/O NARESH SHARMA AGED 28 YEARS
R/O H.NO.314, ANAND KUNJ APARTMENTS, VIKAS PURI, DELHI
ON S.A.**

I have come to the Court for quashing of the FIR No.706/2015, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Vikas Puri. My affidavit dated 15.12.2017 bears my signatures at points A and B on EX.CW-2/A which I have signed voluntarily of my own accord without any duress, pressure or coercion from any quarter.

A settlement has been arrived at between me and the petitioners No.1 to 4 on 16.3.2016 at the Mediation Centre, Tis Hazari Court, Delhi. The true copy of the mediation settlement dated 16.3.2016 bears my signatures at points A on each page thereof on Ex.CW2/B which I have signed voluntarily of my own accord without any duress, pressure or coercion from any quarter. The marriage between me and the petitioner No.1 has since been dissolved vide a decree of divorce through mutual consent dated 1.4.2017 in HMA No.530/2017 under Section 13(B) (2) of the Hindu Marriage Act, 1955. The true copy of which is on the record as EX.CW-2/C. There is no child of the Wedlock between me and the petitioner No.1.

Pursuant to the settlement arrived at between me and the petitioners I have received a total sum of Rs.14 Lacs and the balance sum of Rs.7 lac has been received by me today vide a demand draft bearing No.003337 dated 9.11.2017 drawn on HDFC bank Limited in my favour. The photocopy of

the same is on the record as EX.CW-2/D. Now there are no claims of mine left against the petitioners no.1 to 4. In view of the settlement arrived at between me and the petitioners, I do not seek any further action against the petitioners No.1 to 3 *namely*, Pramod Kumar Sharma, Kamal Kumar Sharma and Sushila Sharma (Present in the Court) nor against the petitioner No.4, *namely*, Seema Goswami. I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.706/2015, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Vikas Puri and all proceeding emanating therefrom. In view of the settlement arrived at between me and the petitioners No.1 to 4, I do not seek that the petitioners be punished in relation to the said FIR No.706/2015, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Vikas Puri.

I have stated so voluntarily of my own accord without any duress, pressure or coercion from any quarter.

RO & AC
19.12.2017

ANU MALHOTRA, J

IN THE HIGH COURT OF DELHI: NEW DELHI

Item No. 41

Crl. M.C. 5364/2017

PRAMOD KUMAR SHARMA & ORS. Vs. STATE & ANR.

19.12.2017

**CW-1 W/ASI ANIL SHARMA POLICE STATION VIKAS PURI
ON S.A.**

I identify the petitioners No.1, 2 and 3, *namely*, Pramod Kumar Sharma, Kamal Kumar Sharma and Sushila Sharma (Present in the Court) and the photograph of the petitioner No.4, *namely*, Seema Goswami (not present in the Court) as the accused and the respondent No.2 Pooja Sharma, the complainant of the FIR No.706/2015, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Vikas Puri present in the Court today. The original Aadhaar Cards of the petitioners No.1 bearing No.768248501628, Petitioner No.2 857399623868, and Petitioner No.3 bearing No.292360468635 and petitioner No.4 bearing No.414132239186 have been produced. The photocopy of the Aadhar Cards of the petitioners No.1 to 4 being Ex.CW-1/A, Ex.CW-1/B and Ex.CW-1/C being Ex.CW1/D and of the respondent No.2 being No.644084695063 being Ex.CW-1/E respectively (Original seen & returned.).

Apart from the petitioners No.1 to 4, no other person/persons is/are arrayed as the accused in relation to the present FIR No.706/2015, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Vikas Puri.

**RO & AC
19.12.2017**

ANU MALHOTRA, J