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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 5080/2017 CRL.M.A. 20007/2017**
ASHISH Petitioner

Through Mr. Rajender Singh, Adv. with
petitioner in person.

versus

STATE OF NCT OF DELHI & ANR Respondent
Through Mr. Kamal Kr. Ghei, APP for State
with ASI Yatender Kumar, PS New
Ashok Nagar.
Mr. Prakash Tyagi, Adv. for R2 with
R2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **05.12.2017**

Vide the present petition the petitioner Ashish s/o Sh. Kartar Singh seeks quashing of the FIR No. 1565/2014, registered at New Ashok Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860 submitting to the effect that the petitioner and the respondent no. 2 are now living together peacefully without any problems and wish to live together for the future of the child.

The Investigating Officer has identified the petitioner Ashish s/o Sh. Kartar Singh as one of the accused in relation to the FIR No. 1565/2014, registered at New Ashok Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860. He has also identified the respondent no. 2 Monika present today in the court i.e. the complainant of the FIR No. 1565/2014,

registered at New Ashok Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860. Photocopies of the proof of identity in the form of Aadhar cards of the petitioner and the respondent no. 2 are Ex. CW2/A and Ex. CW2/B respectively.

At the outset, it has been submitted on behalf of the State that in the FIR in question, there are two other co-accused other than the petitioner arrayed on record i.e. the father-in-law and the brother-in-law of the respondent no. 2 and thus the petition seeking quashing of the FIR in question be thus not allowed.

The averments made in the petition are an indicator to the effect that the petitioner and the respondent no. 2 are living together. 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 20.11.2017 annexed to the petition bears her signature thereon at points-A and B on Ex.CW1/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 no opposition to the quashing of the FIR No. 1565/2014, registered at New Ashok Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860 against the petitioner Ashish s/o Sh. Kartar Singh only as she has been living with her husband i.e. the petitioner Ashish s/o Kartar Singh for the last one year and she has no problems now with the petitioner. However, the respondent no. 2 seeks that the proceedings continue qua her father-in-law and her brother-in-law mentioned in the said FIR.

Taking into account the statement made by the respondent no. 2 Monika present today in the court i.e. the complainant of the FIR No.

1565/2014, registered at PS New Ashok Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860 and the factum that the petitioner and the respondent no. 2 are living together with the minor child for the last one year and that the respondent no.2 has no problems now with the petitioner, 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. 1565/2014, registered at New Ashok Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom is allowed against the petitioner i.e. Ashish s/o Sh. Kartar Singh alone, which is thus accordingly allowed, and the FIR No. 1565/2014, registered at New Ashok Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefore are quashed against the petitioner i.e. Ashish s/o Sh. Kartar Singh alone.

The petition is disposed of.

ANU MALHOTRA, J

DECEMBER 05, 2017/MK