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

+ **CRL.M.C. 5262/2017 & CRL.M.A. 20674/2017**

SUNIL GUPTA & ANR Petitioner

Through: Mr. Vipin Mishra, Adv.

versus

STATE (GOVT OF NCT OF DELHI) & ANR Respondent

Through: Mr. Sanjeev Sabharwal, APP for State
with SI Azad Singh, PS Ranhola. The
respondent no.2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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14.12.2017

CRL.M.A. 20674/2017 (Exemption)

Exemption allowed, subject to just exceptions.

CRL.M.C. 5262/2017

Vide the present petition, the petitioner no. 1 Sunil Gupta and petitioner no. 2 Smt. Shakuntala seek quashing of FIR No.36/2010, PS Ranhola, under Sections 498A/406/34 Indian Penal Code, 1860 registered on the complaint of the respondent no.2 Ms. Seema Gupta, d/o Shri Sita Ram Gupta.

The Investigating Officer of the case is present and has identified the petitioner no. 1 & 2 on the basis of their ID proof in the form of their Aadhar Cards, photocopies of which are placed on record as Ex. CW1/B to Ex. CW1/C respectively and has also

identified the complainant/ respondent no.2 who has produced her original Aadhar Card, photocopy of which is placed on record as Ex. CW1/A. It has also been stated by the Investigating Officer that apart from the petitioner nos. 1 and 2 there are no other accused in the said FIR.

Vide the present petition, it has been submitted on behalf of the respondent no.2 that the marriage between her and the petitioner no.1 has since been dissolved vide the decree of divorce dated 10.03.2017 by mutual consent under Section 13 B(2) in HMA No. 120/17 (N) passed by the Judge Family Court, Dwarka Courts, New Delhi, the certified copy of which is on the record as Ex. CW2/C and that pursuant to the mediation settlement dated 10.05.2016 which has since been arrived at between the petitioner no.1 and the respondent no.2 at the Mediation Centre, Tis Hazari Courts, Delhi, true copy of which is on the record as Ex. CW2/B, a total sum of Rs. 5 lacs has since been paid by the petitioner no.1 to the respondent no.2 and that there are no claims of the respondent no.2 left against the petitioner.

The respondent No.2 has affirmed her signatures on the affidavit at Point C and D on the Ex. CW-2/A annexed with the petition and has also affirmed her signatures on the mediation settlement dated 10.05.2016 placed on the record as Ex. CW2/B having been appended by her of her own accord and without any duress, coercion or pressure from any quarter. She has further stated that pursuant to the said mediation settlement, the minor child namely Shaan born of the wedlock between her and the petitioner no.1, is in her custody and shall remain in her custody and she has no opposition

to the prayer made by the petitioners seeking quashing of the FIR in question and that she does not seek the petitioner nos. 1 and 2 to be punished.

Learned APP for the State in the circumstances does not oppose the prayer.

On a perusal of the FIR it apparently appears that the present FIR in question emanates from the matrimonial discord between the petitioner no.1 and the respondent no.2 which matrimonial discord has since been dissolved by the decree of divorce dated 10.03.2017 under Section 13 B(II) in HMA No. 120/17 (N) passed by the Judge Family Court, Dwarka Courts, New Delhi, the certified copy of which is on the record as Ex. CW2/C and it has also been submitted on behalf of the respondent no. 2 that the dispute between petitioner nos.1 & 2 and her has been settled.

In view of the statement made by the respondent no.2, there is no reason to disbelieve her statement that she has so stated voluntarily of her own accord and without any duress, coercion or pressure from any quarter and has further testified that there are no claims against 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.]”

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)

it is thus considered appropriate in the interest of justice that the prayer made by the petitioners seeking quashing of the FIR No.36/2010, PS Ranhola, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom is allowed against the petitioner no.1 Shri Sunil Gupta and petitioner no. 2 Smt. Shakuntala Gupta,

which is thus accordingly allowed, and the FIR No.36/2010, PS Ranhola, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefore are quashed against the petitioners.

The petition is disposed of.

ANU MALHOTRA, J

DECEMBER 14, 2017

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