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

+ **CRL.M.C. 5280/2017 CRL.M.A. 20724-20725/2017**

VINOD KUMAR NEGI & ANR

..... Petitioner

Through Mr. S.S. Singhal, Adv. with P1 & P2
in person.

versus

STATE (GOVT OF NCT OF DELHI) & ANR Respondent

Through Mr. Sanjeev Sabharwal, APP for State
with ASI Mool Chand, PS Madhu
Vihar.

Mr. Amit Singh Chauhan, Adv. for
R2 with R2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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15.12.2017

Vide the present petition the petitioners no. 1 Vinod Kumar Negi s/o Sh. Amar Singh Negi and the petitioner no. 2 Amar Singh Negi s/o Late Sh. Kirpal Singh Negi seek the quashing of the FIR No. 745/15, PS Madhu Vihar submitting to the effect that the petitioner no. 1 and the respondent no. 2 are now living together peacefully pursuant to the Memorandum of Understanding dated 01.12.2017 arrived at between the petitioners and the respondent no. 2.

The Investigating Officer has identified the petitioners no. 1 Vinod Kumar Negi s/o Sh. Amar Singh Negi and the petitioner no. 2 Amar Singh Negi s/o Late Sh. Kirpal Singh Negi as being the accused in relation to FIR No. 745/15, registered at PS Madhu Vihar, under Sections

323/325/341/506/34 of the Indian Penal Code, 1860. He has also identified the respondent no. 2 Malti Negi present today in the court i.e. the complainant of the FIR No. 745/15, registered at PS Madhu Vihar, under Sections 323/325/341/506/34 of the Indian Penal Code, 1860. Photocopies of the proof of identity in the form of Election Commission Identity Card of the petitioner no. 1 and Aadhar cards of the petitioners no. 2 and respondent no. 2 are on the record, which are Ex.CW1/A to Ex. CW1/C respectively.

The respondent no. 2 Malti Negi is also present today in the Court and has been examined by the Court and she has testified that her affidavit dated annexed to the petition bears her signature thereon at points-A and B on Ex.CW2/A, which she has signed voluntarily of her own accord without any duress or coercion from any quarter. She has further testified that the Memorandum of Understanding dated 01.12.2017 bears her signatures at each page at points-A thereon on Ex.CW2/B, which she has signed voluntarily of her own accord without any duress or coercion from any quarter and that in view of the settlement arrived at between her and the petitioners, she has been living with the petitioners along with her two children aged 10 years and 6 years and that she has no opposition to the quashing of the FIR No. 745/15, registered at PS Madhu Vihar, under Sections 323/325/341/506/34 of the Indian Penal Code, 1860.

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. 745/15, registered at PS Madhu Vihar, under Sections 323/325/341/506/34 of the Indian Penal Code, 1860.

Taking into account the statement made by the respondent no. 2 Malti Negi present today in the court i.e. the complainant of the FIR No. 745/15,

registered at PS Madhu Vihar, under Sections 323/325/341/506/34 of the Indian Penal Code, 1860 and the factum that the petitioner and the respondent no. 2 are living together with their children aged 10 years and the 6 years pursuant to the Memorandum of Understanding dated 01.12.2017 arrived at between the petitioners and the respondent no. 2, there appears no reason to disbelieve that the statement that has been made by the respondent no. 2 voluntarily of her own accord without any duress or coercion from any quarter and as apparently the FIR No. 745/15, registered at PS Madhu Vihar, under Sections 323/325/341/506/34 of the Indian Penal Code, 1860 emanates from a matrimonial discord, which has since been resolved vide the Memorandum of Understanding dated 01.12.2017 executed between the petitioners and the respondent no. 2 and as the respondent no.2 is living with the petitioner along with her two children aged 10 years and 6 years and that she has no problems now; it is considered to maintain peace and harmony between the petitioners and the respondents no. 2, 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. 745/15, registered at PS Madhu Vihar, under Sections 323/325/341/506/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom is allowed against the petitioners i.e. the petitioners no. 1 Vinod Kumar Negi s/o Sh. Amar Singh Negi and the petitioner no. 2 Amar Singh Negi s/o Late Sh. Kirpal Singh Negi, which is thus accordingly allowed, and the FIR No. 745/15, registered at PS Madhu Vihar, under Sections 323/325/341/506/34 of the Indian Penal Code, 1860 and all consequential

proceedings emanating therefrom are quashed.

The petition is disposed of.

Copy of the order be given *Dasti*, as prayed.

ANU MALHOTRA, J

DECEMBER 15, 2017/MK