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

+ **CRL.M.C. 5281/2017 CRL.M.A. 20726/2017**

KAMAL @ VIJENDER & ORS

..... Petitioner

Through Mr. Rubbal Kumar, Adv. with P1 to
P4 in person.

versus

STATE & ORS

..... Respondent

Through Mr. Kamal Kr. Ghei, APP for State
with ASI Om Prakash, PS Shahbad
Dairy.
R2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **15.12.2017**

CRL.M.A. 20726/2017 (exemption)

Allowed, subject to all just exceptions.

Vide the present petition, the petitioner no. 1 Kamal @ Vijender s/o Late Dharam Pal Singh, the petitioner no. 2 Smt. Premwati w/o Late Dharam Pal Singh, the petitioner no. 3 Jagdish s/o Late Dharam Pal Singh and the petitioner no. 4 Seema Rani d/o Late Dharam Pal Singh submit to the effect that a settlement has since been arrived at between the petitioners no. 1 to 4 and the respondent no. 2 whereby vide a decree of divorce dated 31.10.2017 of the Court of the Judge, Family Court, Rohini North, Delhi in HMA Petition No. 1378/17 under Sections 13B(2) of the Hindu Marriage Act, 1955 and pursuant to the settlement arrived at between the respondent no. 2 and the petitioners no. 1 to 4, a sum of Rs.5.25 lacs has already been paid to the respondent no. 2 and the balance sum of Rs.2.50

lacs is to be paid today, and that the matter having been settled between the petitioners and the respondent No.2, FIR No.696/2016 registered at PS Shahbad Dairy under Sections 498A/406/34 IPC, 1860 be quashed.

The Investigating Officer has identified the petitioner no. 1 Kamal @ Vijender s/o Late Dharam Pal Singh, the petitioner no. 2 Smt. Premwati w/o Late Dharam Pal Singh, the petitioner no. 3 Jagdish s/o Late Dharam Pal Singh and the petitioner no. 4 Seema Rani d/o Late Dharam Pal Singh as being the accused in relation to the FIR No. 696/16, registered at PS Shahbad Dairy, under Sections 498A/406/34 of the Indian Penal Code, 1860 and has stated that the petitioner no. 3 present today in the court as Jagdish is also named as Rajeev in relation to which the respondent no. 2 in her testimony too has identified the petitioner no. 3 present today in the Court as Jagdish as also named as Rajeev i.e. her brother-in-law.

The Investigating Officer has also identified the respondent no. 2 Anuradha d/o Sh. Kunwar Pal Singh present today in the Court as as being the complainant of the FIR No. 696/16, registered at PS Shahbad Dairy, under Sections 498A/406/34 of the Indian Penal Code, 1860. Photocopies of the proof of identity in the form of Aadhar card of the petitioners no. 1 and the Election Commission Identity Cards of the petitioners 2, the petitioner no. 3, the petitioner no. 4 and of Aadhar card of the respondent no. 2 are Ex. CW1/A to Ex. CW1/E respectively.

The respondent no. 2 Ms. Anuradha is also present today in the Court and has been examined by the Court and she has testified that her affidavit 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

marriage between her and the petitioner no. 1 has since been dissolved vide a decree of divorce dated 31.10.2017 of the Court of the Judge, Family Court, Rohini North, Delhi in HMA Petition No. 1378/17 under Sections 13B(2) of the Hindu Marriage Act, 1955 as Ex.CW2/C and pursuant to the settlement arrived at between her and the petitioners no. 1 to 4, it has been agreed that a total sum of Rs.7.75 lacs would be paid by the petitioners to her towards all the claims in relation to the FIR No. 696/16, registered at PS Shahbad Dairy, under Sections 498A/406/34 of the Indian Penal Code, 1860 and in relation to all her claims and qua the maintenance of the minor child namely Mohita. She has further testified that as per the settlement the minor child namely Mohita is in her custody and shall continue to remain in her custody and that she has received a sum of Rs.5.25 lacs from the petitioners no. 1 & the petitioner no. 4 and the balance sum of Rs.2.50 lacs has been received by her today vide a Banker's cheque bearing no. 503465 dated 11.12.2017 drawn on State Bank of India, Jahangirpuri, Delhi photocopy of which is taken on record as Ex.CW2/B. She has further testified to the effect that there are now no claims of her left against the petitioners in relation to the FIR No. 696/16, registered at PS Shahbad Dairy, under Sections 498A/406/34 of the Indian Penal Code, 1860 nor in relation to alimony and nor for the minor child Mohita born out of the wedlock of herself and the petitioner no. 1. She also testified to the effect that she does not oppose the prayer made by the petitioner no. 1 Kamal @ Vijender s/o Late Dharam Pal Singh, the petitioner no. 2 Smt. Premwati w/o Late Dharam Pal Singh, the petitioner no. 3 Jagdish s/o Late Dharam Pal Singh and the petitioner no. 4 Seema Rani d/o Late Dharam Pal Singh in the petition seeking quashing of the FIR No. 696/16, registered at PS Shahbad

Dairy, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom.

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. 696/16, registered at PS Shahbad Dairy, under Sections 498A/406/34 of the Indian Penal Code, 1860.

Taking into account the statement made by the respondent no. 2 Anuradha d/o Sh. Kunwar Pal Singh present today in the court i.e. the complainant of the FIR No. 696/16, registered at PS Shahbad Dairy, under Sections 498A/406/34 of the Indian Penal Code, 1860 and the factum that the marriage between the respondent no. 2 and the petitioner no. 1 has since been dissolved vide a decree of divorce dated 31.10.2017 of the Court of Judge, Family Court, Rohini North, Delhi in HMA Petition No. 1378/17 under Sections 13B(2) of the Hindu Marriage Act, 1955 as Ex.CW2/C and pursuant to the settlement arrived at between the respondent no. 2 and the petitioners no. 1 to 4 all claims are indicated to have been settled, there appears no reason to disbelieve that the statement made by the respondent no. 2 has been made voluntarily of her own accord without any duress or coercion from any quarter, 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. 696/16, registered at PS Shahbad Dairy, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom is allowed against the petitioners i.e. the petitioner no. 1 Kamal @ Vijender s/o

Late Dharam Pal Singh, the petitioner no. 2 Smt. Premwati w/o Late Dharam Pal Singh, the petitioner no. 3 Jagdish s/o Late Dharam Pal Singh and the petitioner no. 4 Seema Rani d/o Late Dharam Pal Singh, which is thus accordingly allowed, and the FIR No. 696/16, registered at PS Shahbad Dairy, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefore are quashed.

The petition is disposed of.

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

ANU MALHOTRA, J

DECEMBER 15, 2017/MK