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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 5404/2017**

NIRMAL SINGH & ORS. Petitioners
Through: Mr.Amit Madaan, Advocate

versus

STATE (NCT OF DELHI) & ANR Respondents
Through: Mr.Izhar Ahmad, APP for State with
SI Praveen Attri, PS Mangolpuri
Mr.Ashish Kumar, Adv for R-2 with
respondent No.2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **20.12.2017**

It is submitted on behalf of the petitioners No.1 to 10 that petitioners No.9 and 10 are minors and there are no proceedings initiated against the petitioners No.9 and 10 at the Juvenile Justice Board.

The Investigating Officer of the case is present and has identified the petitioners No.1 to 8 present before the Court along with the petitioners No.9 and 10 as being the sole accused arrayed in FIR No.1110/2016 under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Mangol Puri registered on the complaint of the respondent No.2 who is also identified by the Investigating Officer of the case. The proof of identities are on the record in the form of the photocopies of the original Aadhar Cards (original seen and returned).

The photocopy of the Aadhar Card of the respondent No.2 is EX.CW-2/A. *Inter alia*, respondent No.2 has testified to having signed her

affidavit EX.CW-2/B dated 14.12.2017 voluntarily of her own accord without any duress, pressure or coercion from any quarter and stated that there is a typographical error in her affidavit EX.CW-2/B in which the Police Station mentioned is K.N.K. Marg whereas, the FIR No.1110/16 was registered at Police Station Mangol Puri. The copy of the FIR is EX.CW-2/D. The respondent No.2 has further testified having signed the compromise deed EX.CW-2/B executed between her and the petitioner No.1. She further testified that she and the petitioner No.1 along with their three children are living together at J-455, Sector-16, Rohini, Delhi 110089, and she has no problems now. *Inter alia*, respondent No.2 has also testified to the effect that the petitioners No.2 to 10 are living separately since the date the petitioner started living with the respondent No.2 at Rohini.

In view of the examination of the respondent No.2 on oath, there appears no reason to disbelieve her statement and that she does not seek the further prosecution of the petitioners in relation to the FIR No.1110/2016 under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Mangol Puri and does not oppose the prayer made by the petitioner seeking quashing and all consequential proceedings emanating therefrom and that she does not want that the petitioners be punished and that she has so stated voluntarily.

Learned APP for the State, in the circumstances of the case, does not oppose the prayer made by the petitioner.

Taking into account the said submission made on behalf of the State and the testimony of the respondent No.2 that she is living with the petitioner No.1 since 28.3.2017 along with her three children pursuant to the settlement arrived at between her and the petitioners vide the compromise

deed EX.CW-2/B and that she has no problems and she does not seek that the petitioners No.1 to 10 be punished any more and to maintain peace and harmony between the parties and in the society as in not granting the prayer made by the petitioner, justice would itself become a casualty 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 the FIR No.1110/2016 under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Mangol Puri and all consequential proceedings emanating therefrom against the petitioners No. 1 to 10, *namely*, Nirmal Singh, Thakur Singh, Smt. Nanki Kaur, Narender Singh, Preeti Kaur, Jeetu Singh, Amandeep Kaur, Rekha Kaur, Lovepret Singh and Ujjwal Singh which is thus accordingly allowed, and the FIR No.1110/2016 under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Mangol Puri and all consequential proceedings emanating therefrom against the petitioners are quashed.

The petition is disposed of.

ANU MALHOTRA, J

DECEMBER 20, 2017/sv

IN THE HIGH COURT OF DELHI: NEW DELHI

Item No. 67

CrI. M.C. 5404/2017

NIRMAL SINGH & ORS Vs. STATE & ANR.

20.12.2017

CW-2 STATEMENT OF SMT. MANJEET KAUR W/O NIRMAL SINGH D/O SURJEET SINGH R/O J-455, SECTOR-16, ROHINI, DELHI 110089

On S.A.

I have studied till 7th Standard.

I have brought my original Aadhar Card bearing No.844409222404, the photocopy of the same is Ex.CW-2/A. (Original seen and returned).

My affidavit annexed to the petition bears my signatures at points A and B on EX. CW-2/B which I have signed voluntarily of my own accord without any duress, coercion or pressure from any quarter. The compromise deed dated 19.12.2017 between me and the petitioner No.1 bears my signatures thereon at EX.CW-2/C which I have also signed voluntarily of my own accord without any duress, coercion or pressure from any quarter.

There is a typographical error in my affidavit EX.CW-2/B in which the Police Station mentioned is K.N.K. Marg whereas, the FIR No.1110/16 was registered at Police Station Mangol Puri. The copy of the FIR is EX.CW-2/D.

Since 28.3.2017 have been living with the petitioner No.1, i.e., my husband Nirmal Singh without any problems along with my three children and I want to continue to live with the petitioner No.1. and thus I do not oppose the prayer made by the petitioners no.1 to 10 seeking quashing of the FIR No.1110/2016 under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Mangol Puri. I do not seek that the petitioners No.1 to 10 be

punished in relation to the said FIR.

The petitioners No.2 to 10, *namely*, Thakur Singh, Smt. Nanki Kaur, Narender Singh, Preeti Kaur, Jeetu Singh, Amandeep Kaur, Rekha Kaur, Lovepret Singh and Ujjwal Singh, are living separately w.e.f. March, 2017 at Nihal Vihar.

I have no opposition to the prayer made by the petitioners seeking quashing of the FIR No.1110/2016 under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Mangol Puri. I have made my statement voluntarily of my own accord without any duress, coercion or pressure from any quarter.

RO & AC
20.12.2017

ANU MALHOTRA, J