

\$~78

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 5339/2017 & CRL.M.A. 20900-20901/2017
RAKESH SEHRAWAT & ANR Petitioners

Through: Mr. B.S. Choudhary, Adv.

versus

STATE (GOVT OF NCT OF DELHI) & ANR Respondents

Through: Mr. Panna Lal Sharma, learned APP
for State with SI Ramesh Kumar, PS
Sultan Puri.

Mr. Bhupinder Mehtani, Adv. for R-
2.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

18.12.2017

%

Crl. M.A. 20901/17 (Exemption)

Exemption allowed, subject to just exceptions.

Crl. M.C.5339/17

Vide the present petition, the petitioner no. 1 Shri Rakesh Sehrawat and the petitioner no. 2 Shri R.S. Sehrawat seek quashing of FIR No.917/2003, registered at PS Sultanpuri, under Sections 498A/406/34 Indian Penal Code, 1860 registered on the complaint of the respondent no.2 Ms. Rajni submitting to the effect that a settlement has been arrived at between the parties and pursuant to the said settlement agreement dated 21.11.2017 arrived at the Mediation Centre, Rohini District Courts, Delhi, the petitioner no.1 and the respondent no.2 have agreed to live together.

The Investigating Officer of the case is present and has identified the the petitioner no. 1 Shri Rakesh Sehrawat and petitioner no. 2 Shri R.S. Sehrawat on the basis of their ID proof in the form of

their Aadhar Card, photocopies of which are placed on the record as Ex. CW1/A and Ex. CW1/B 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/C. The IO has further stated that the three other accused persons namely Dinesh Kumar (brother-in-law), Ishwari Devi (mother-in-law) and Kamla Devi (sister-in-law) arrayed as accused in the said FIR have been discharged vide order dated 13.01.2012 of the Court of learned MM/Rohini/ Delhi and the said order was upheld vide order dated 04.01.2013 of the Court of learned ASJ, Special Judge, (NDPS), Outer Distt, Rohini Courts, Delhi in CrI. Rev. No. 56/12.

The respondent no.2 in her examination on oath by the Court has stated that she has signed the affidavit submitting her non-opposition to the petition and the quashing of FIR No.917/2003, registered at PS Sultanpuri, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom voluntarily of her own accord and without any duress, coercion or pressure from any quarter inasmuch as pursuant to the mediation settlement arrived at between the petitioner no.1 and the respondent no.2, she has stated that she would be living with the petitioner no.1 with effect from 24.12.2017 along with the child named Muskan, born out of the said wedlock who is presently living with her. She has further stated that she is a M.A., B.Ed and she has arrived at the said mediation settlement voluntarily.

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

In view of the statement made by Ms. Rajni that she has arrived at the mediation settlement dated 21.11.2017, copy of which is on the record as Ex. CW2/B voluntarily and that she has made her statement submitting to the effect that she has no opposition to the present petition and that she has so stated voluntarily of her own accord and without any duress, coercion or pressure from any quarter, it apparently appears that the FIR No.917/2003, registered at PS Sultanpuri, under Sections 498A/406/34 Indian Penal Code, 1860 emanates from the matrimonial discord between the petitioner no.1 and the respondent no.2 which matrimonial discord has since been resolved as submitted by the respondent no.2, who has further submitted to the effect that she would be residing with petitioner no.1 with effect from 24.12.2017

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 to put a quietus to the litigation between the parties so that the peace and harmony between them is restored in view thereof the FIR No. 917/2003, PS Sultanpuri, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioners which is thus accordingly allowed, and the FIR No. 917/2003, PS Sultanpuri, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom are quashed against the petitioners.

The petition is disposed of.

ANU MALHOTRA, J

DECEMBER 18, 2017

Vm