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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 5397/2017 CRL.M.A. 21069/2017**
AMIT SHARMA & ORS Petitioner
Through Mr. V.K. Pandey, Mr. Lalit Kumar,
Yadav, Advs. with P1 in person.
versus

THE STATE GOVT OF NCT OF DELHI & ANR..... Respondent
Through Mr. Izhar Ahmad, APP for State with
IO SI Ashwani Kumar, PS Jyoti
Nagar.
Mr. V.S. Bhardwaj, Adv. for R2 with
R2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **20.12.2017**

CRL.M.A. 21069/2017

CRL.M.A. 21069/2017 is an application filed on behalf of the petitioner seeking exemption from filing certified copies of the annexures. The same is allowed, subject to just exceptions.

The application is disposed of.

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Vide the present petition, the petitioner no. 1 Amit Sharma s/o Sh. V.D. Sharma, the petitioner no. 2 Vasudev Sharma s/o Late Sh. B.L. Sharma, the petitioner no. 3 Smt. Rajbala Sharma, w/o Sh. V.D. Sharma, the petitioner no. 4, Ramesh Chandra Sharma s/o Late B.L. Sharma, the petitioner no. 5 Anupam Sharma @ Annu w/o Sh. Ramesh Chandra Sharma, the petitioner no. 6 Sh. Shanker Dutt Khajuria s/o Sh. Ashwani Kumar

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Kahjuria and the petitioner no. 7 Smt. Nishal Khajuria w/o Sh. Shanker Dutt Khajuria seek quashing of the FIR No. 850/15, registered at PS Jyoti Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860 and Sections 4 & 5 of the Dowry Prohibition Act, 1961 submitting to the effect that a Settlement Agreement dated 01.06.2016 has been arrived at between the parties at the Counselling Cell before the Principal Judge, Family Court, Karkardooma, Shahdara, Delhi and pursuant to the said settlement, the marriage between the respondent no. 2 and the petitioner no. 1 has since been dissolved vide a decree of divorce dated 06.07.2017 of the Court of the Principal Judge, Family Court, Karkardooma, Shahdara, Delhi in HMA No. 801/17 under Sections 13B(2) of the Hindu Marriage Act, 1955, photocopy of which is on record as Ex.CW2/C and pursuant to the said settlement arrived at the respondent no. 2 had already received a sum of Rs.6 lacs previously from the petitioners and a sum of Rs.2.5 lacs has been received by the respondent no. 2 today from the petitioner no. 1 vide D.D. No. 331521 dated 13.12.2017 drawn on Yes Bank Ltd. Mumbai, photocopy of which is on record and is exhibited as Ex.CW2/D.

The Investigating Officer has identified the petitioner no. 1 Amit Sharma s/o Sh. V.D. Sharma as being the accused in relation to FIR No. 850/15, registered at PS Jyoti Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860 and Sections 4 & 5 of the Dowry Prohibition Act, 1961. Photocopy of the proof of identity in the form of the Aadhar card of the petitioner no.1 is on the record, which is Ex.CW1/A (original seen and returned). He has also identified the photographs of the petitioner no. 2 Vasudev Sharma s/o Late Sh. B.L. Sharma, the petitioner no. 3 Smt. Rajbala

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Sharma, w/o Sh. V.D. Sharma, the petitioner no. 4, Ramesh Chandra Sharma s/o Late B.L. Sharma, the petitioner no. 5 Anupam Sharma @ Annu w/o Sh. Ramesh Chandra Sharma, the petitioner no. 6 Sh. Shanker Dutt Khajuria s/o Sh. Ashwani Kumar Kahjuria and the petitioner no. 7 Smt. Nishal Khajuria w/o Sh. Shanker Dutt Khajuria as being the accused in relation to FIR No. 850/15, registered at PS Jyoti Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860 and Sections 4 & 5 of the Dowry Prohibition Act, 1961, which are on record as Ex.CW1/B to Ex.CW1/G. None of these petitioners no. 2 to 7 are present today before the Court. He has further stated that the petitioners no. 1 to 7 named above are the only persons arrayed as the accused in the FIR mentioned above. He has also identified the respondent no. 2 Preeti d/o Sh. Viodhya Sagar Bhadwaj present today in the court i.e. the complainant of the FIR No. 850/15, registered at PS Jyoti Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860 and Sections 4 & 5 of the Dowry Prohibition Act, 1961. Photocopy of the proof of identity in the form of the Aadhar card of the respondent no. 2 is on the record, which is Ex.CW1/H.

The respondent no. 2 is also present today in the Court and has been examined by the Court and she has testified that she is a Post Graduate in Physiotherapy and works as a Physiotherapist and 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 testified to the effect that the Settlement Agreement dated 01.06.2016 has been arrived at between the parties at the Counselling Cell of the Principal Judge, Family Court, Karkardooka,

Shahdara, Delhi which bears her signatures thereon at points-A & B on Ex.CW2/B, which she has signed voluntarily of her own accord without any duress or coercion from any quarter and pursuant to the said settlement, the marriage between the respondent no. 2 and the petitioner no. 1 Amit Sharma s/o Sh. V.D. Sharma has since been dissolved vide a decree of divorce dated 06.07.2017 of the Court of the Principal Judge, Family Court, Karkardooka, Shahdara, Delhi in HMA No. 801/17 under Sections 13B(2) of the Hindu Marriage Act, 1955, photocopy of which is on record as Ex.CW2/C. She has further testified that pursuant to the said settlement arrived at between her and the petitioners, she has received a sum of Rs.6 lacs previously from the petitioners and a sum of Rs.2.5 lacs has been received by her today from the petitioner no. 1 vide D.D. No. 331521 dated 13.12.2017 drawn on Yes Bank Ltd. Mumbai, photocopy of which is on record as Ex.CW2/D and that now there are no claims of herself are left against the petitioners in relation to the FIR No. 850/15, registered at PS Jyoti Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860 and Sections 4 & 5 of the Dowry Prohibition Act, 1961 and that she does not want that the petitioners no. 1 to 7 named in the memo of parties be punished and that she has no opposition to the quashing of the FIR No. 850/15, registered at PS Jyoti Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860 and Sections 4 & 5 of the Dowry Prohibition Act, 1961 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. 850/15, registered at PS Jyoti Nagar, under Sections 498A/406/34 of the *CRL.M.C. 5397/2017*

Indian Penal Code, 1860 and Sections 4 & 5 of the Dowry Prohibition Act, 1961.

Taking into account the statement made by the respondent no. 2 Preeti d/o Sh. Vidhya Sagar Bhadwaj present today in the Court i.e. the complainant of the FIR No. 850/15, registered at PS Jyoti Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860 and Sections 4 & 5 of the Dowry Prohibition Act, 1961 and in view of the factum a Settlement Agreement dated 01.06.2016 arrived at between the parties at the Counselling Cell before the Principal Judge, Family Court, Karkardooka, Shahdara, Delhi which bears her signatures thereon at points-A & B on Ex.CW2/B, which she stated that she has signed voluntarily of her own accord without any duress or coercion from any quarter and pursuant to the said settlement, the marriage between the respondent no. 2 and the petitioner no. 1 Amit Sharma s/o Sh. V.D. Sharma has since been dissolved vide a decree of divorce dated 06.07.2017 of the Court of the Principal Judge, Family Court, Karkardooka, Shahdara, Delhi in HMA No. 801/17 under Sections 13B(2) of the Hindu Marriage Act, 1955, photocopy of which is on record as Ex.CW2/C and the factum that pursuant to the said settlement, she has received a sum of Rs.6 lacs previously from the petitioners and a sum of Rs.2.5 lacs has been received by her today from the petitioner no. 1 vide D.D. No. 331521 dated 13.12.2017 drawn on Yes Bank Ltd. Mumbai, photocopy of which is on record as Ex.CW2/D and that now there are no claims left against the petitioners in relation to the FIR No. 850/15, registered at PS Jyoti Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860 and Sections 4 & 5 of the Dowry Prohibition Act, 1961

and that she does not want that the petitioners no. 1 to 7 named above be punished and that she has no opposition to the quashing of the FIR No. 850/15, registered at PS Jyoti Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860 and Sections 4 & 5 of the Dowry Prohibition Act, 1961 and all consequential proceedings emanating therefrom, 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, to maintain peace and harmony between the petitioners and the respondent 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)

and in view of the verdict of the Apex Court in the case of ***Jitendra Raghuvanshi & Ors. Vs. Babita Raghuvanshi & Anr.*** (2013) 4 SCC 58, wherein the Supreme Court in respect of the matrimonial disputes has specifically held as follows:-

“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....”

it is thus considered appropriate in the interest of justice that the prayer made by the petitioners seeking quashing of the FIR No. 850/15, registered at PS Jyoti Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860 and Sections 4 & 5 of the Dowry Prohibition Act, 1961 is allowed against the petitioner no. 1 Amit Sharma s/o Sh. V.D. Sharma, the petitioner no. 2 Vasudev Sharma s/o Late Sh. B.L. Sharma, the petitioner no. 3 Smt. Rajbala Sharma, w/o Sh. V.D. Sharma, the petitioner no. 4, Ramesh Chandra Sharma s/o Late B.L. Sharma, the petitioner no. 5 Anupam Sharma @ Annu w/o Sh. Ramesh Chandra Sharma, the petitioner no. 6 Sh. Shanker Dutt Khajuria s/o Sh. Ashwani Kumar Kahjuria and the petitioner no. 7 Smt. Nishal Khajuria w/o Sh. Shanker Dutt Khajuria, which is thus accordingly allowed, and the FIR No. 850/15, registered at PS Jyoti Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860 and Sections 4 & 5 of the Dowry Prohibition Act, 1961 and all consequential proceedings

emanating therefrom are quashed.

The petition is disposed of.

ANU MALHOTRA, J

DECEMBER 20, 2017/MK