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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 5520/2017**

SACHIN JAIN & ANR Petitioner
Through: Pertitioner no.1 for self and as SPA
holder for petitioner no.2.

versus
STATE (NCT OF DELHI) & ANR Respondent
Through: Mr. Izhar Ahmad, APP for State with
SI Shri Gopal, PS Shakar Pur.
R-2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **22.12.2017**

The Special Power of Attorney of the petitioner no.2 is on the record dated 15.12.2017.

Vide the present petition, the petitioner no.1 for self and as Special Power of Attorney holder of the petitioner no.2 Raj Bala seeks quashing of FIR No.185/13, registered at PS Shakar Pur, under Sections 498A/406/34 Indian Penal Code, 1860 registered on the complaint of the respondent no.2 Ms. Rinki Jain submitting to the effect that they have since arrived at a settlement with the respondent no.2 at Delhi Mediation Centre, Karkardooma Courts, Delhi pursuant to the settlement between the petitioner no. 1 and the respondent no. 2 by dissolution of the marriage between the petitioner no.1 and the respondent no.2 by the decree of divorce through mutual consent.

The Investigating Officer of the case is present and has identified the petitioner no.1 and the respondent no. 2. The proof of identity of the petitioner no.1 & 2 in the form of their passports and

the Aadhar Card of the respondent no. 2 have been produced, photocopies of which are on the record as Ex. CW1/A, B & C respectively. The Investigating Officer has further stated that though two other persons namely Mr. Daya Kishan Jain and Ankit Jain were also arrayed as accused in the said FIR they have since been discharged vide order dated 31.01.2015.

The complainant on her examination on oath by the Court has affirmed her signatures on the mediation settlement dated 15.02.2017 placed on the record as Ex. CW2/B and stated that she has signed the same voluntarily of her own accord and without any duress, coercion or pressure from any quarter. She also affirmed that the marriage between her and the petitioner no.1 has since been dissolved by the decree of divorce under Section 13B(2) in HMA No. 1068/17 vide the decree dated 23.09.2017 of the Court of Principal Judge, Family Court, District East, Vishwas Nagar, Delhi. Certified copy of the same is on the record as Ex. CW2/A and further stated that pursuant to the mediation settlement arrived at between her and the petitioner no.1, she has received a sum of Rs. 2 lakhs in the name of her child Siya Jain and there are no claims of hers left against the petitioner. She further stated that the minor child is in her custody and shall remain in her custody as per the settlement agreement and thus does not oppose the prayer made by the petitioner seeking quashing of the FIR No.185/13, registered at PS Shakar Pur, under Sections 498A/406/34 Indian Penal Code, 1860 and does not seek any of the petitioners to be punished.

Learned APP for the State in the circumstances of the case does

not oppose the prayer.

In view of the statement made by the respondent no.2, the complainant of the FIR No.185/13, registered at PS Shakar Pur and taking into account the aspect that the present FIR in question emanates from the matrimonial discord between the petitioner no.1 and the respondent no.2 which matrimonial discord has since been resolved vide the decree of divorce dated 23.09.2017 under Section 13B(2) in HMA No. 1068/17 of the Court of the Principal Judge, Family Court, District East, Vishwas Nagar, Delhi, certified copy of which is on the record as Ex. CW2/A and further taking into account the submissions made on behalf of the respondent no. 2 that the dispute between the petitioner nos.1 & 2 and her has been settled and that she does not want the prosecution of the petitioners any further in relation to the said FIR for maintenance and restoration of 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.]”

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)

it is thus considered appropriate in the interest of justice that the prayer made by the petitioners seeking quashing of the FIR No.185/13, registered at PS Shakar Pur, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom is allowed against the petitioner no.1 Sachin Jain and the petitioner no.2 Raj Bala, which is thus accordingly allowed, and the FIR No.185/13, registered at PS Shakar Pur, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioners are quashed.

The petition is disposed of.

ANU MALHOTRA, J

DECEMBER 22, 2017/vm