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

+ **CRL.M.C. 5372/2017 CRL.M.A. 21003/2017**

MANOJ KAPOOR

..... Petitioner

Through Mr. P.R. Sharma, Adv. with petitioner
in person.

versus

STATE (GOVT OF NCT DELHI) & ANR

..... Respondent

Through Mr. Izhar Ahmad, APP for State with
SI Rajesh Kumar, PS Khyala, New
Delhi.

Mr. Pankaj Talwar, Adv. for R2 with
R2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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19.12.2017

CRL.M.A. 21003/2017

CRL.M.A. 21003/2017 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.

CRL.M.C. 5372/2017

Vide the present petition, the petitioner Manoj Kapoor s/o Sh. Ram Lal seeks quashing of the FIR No. 296/12, registered at PS Khayala, under Sections 498A/406 of the Indian Penal Code, 1860 submitting to the effect that a Mediation Settlement dated 21.02.2017 Ex.CW2/B has been arrived at

between the petitioner and the respondent no. 2 and the marriage between the petitioner and the respondent no. 2 has since been dissolved vide a decree of divorce dated 28.11.2017 of the Court of the Principal Judge, Family Court (West), Tis Hazari Courts, Delhi in HMA Petition No. 1690/17 under Sections 13B(2) of the Hindu Marriage Act, 1955, copy of which is Ex.CW2/E.

The Investigating Officer has identified the petitioner Manoj Kapoor s/o Sh. Ram Lal as being the accused in relation to FIR No. 296/12, registered at PS Khayala, under Sections 498A/406 of the Indian Penal Code, 1860. He has also identified the respondent no. 2 Jyoti Sharma, @ Shrishti d/o Sh. Shyam Sunder Bhardwaj present today in the Court as being the complainant of the FIR No. 296/12, registered at PS Khayala, under Sections 498A/406 of the Indian Penal Code, 1860. Photocopies of the proof of identity in the form of the Aadhar cards of the petitioners and respondent no. 2 are on the record, which are Ex.CW1/A to Ex. CW1/B respectively.

The respondent no. 2 is also present today in the Court and has been examined by the Court and she has testified that she has studied till standard 9th 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 further testified to the effect that a Mediation Settlement dated 21.02.2017 has been arrived at between the parties and the marriage between her and the petitioner Manoj Kapoor s/o Sh. Ram Lal has since been dissolved vide a decree of divorce dated 28.11.2017 of the Court of the Principal Judge, Family Court (West), Tis Hazari Courts, Delhi in HMA Petition No. 1690/17 under Sections 13B(2) of the Hindu Marriage Act, 1955 and

pursuant to the said settlement, it has been agreed that a total sum of Rs.3.10 lacs in addition to a sum of Rs.18,000/- as observed in order dated 10.04.2017 in Hindu Marriage Act, 1955 No. 746/17 of the Principal Judge, Family Court (West), Tis Hazari Courts, Delhi was to be paid to her by the petitioner and out of the settled amount, a sum of Rs.2.10 lacs has already been received by her previously from the petitioner. She has further testified to the effect that the balance sum of Rs.1.18 lacs has been received by her in the Court today vide two DDs bearing no. 261746 dated 02.12.217 for a sum of Rs.1 lacs drawn on the Union Bank of India, Ballabhgarh, photocopy of which is Ex.CW2/C and bearing no. 261748 dated 13.12.217 for a sum of Rs.18,000/- drawn on the Union Bank of India, Ballabhgarh, photocopy of which is Ex.CW2/D and the minor child namely Chhavi born out of the wedlock between her and the petitioner is in her custody and shall continue to remain in my custody. She also testified to the effect that now there are no claims of hers left against the petitioner in relation to FIR No. 296/12, registered at PS Khayala, under Sections 498A/406 of the Indian Penal Code, 1860 as the marriage between her and the petitioner has been dissolved vide a decree of divorce dated 28.11.2017 of the Court of the Principal Judge, Family Court (West), Tis Hazari Courts, Delhi in HMA Petition No. 1690/17 under Sections 13B(2) of the Hindu Marriage Act, 1955 and that she has no opposition to the quashing of the FIR No. 296/12, registered at PS Khayala, under Sections 498A/406 of the Indian Penal Code, 1860.

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. 296/12, registered at PS Khayala, under Sections 498A/406 of the

Indian Penal Code, 1860.

The Investigating Officer of the case has already stated to the effect that the co-accused Ram Lal i.e. father-in-law and Smt. Asha i.e. mother-in-law of the respondent no. 2 have already been discharged vide order dated 05.08.2004 of the MM, Mahila Court (West), Tis Hazari Courts, Delhi in relation to the FIR No. 296/12, registered at PS Khayala, under Sections 498A/406 of the Indian Penal Code, 1860.

Taking into account the statement made by the the respondent no. 2 Jyoti Sharma, @ Shrishti d/o Sh. Shyam Sunder Bhardwaj present today in the court i.e. the complainant of the FIR No. 296/12, registered at PS Khayala, under Sections 498A/406 of the Indian Penal Code, 1860 and the factum that a Mediation Settlement dated 21.02.2017 has been arrived at between the parties and the marriage between the respondent no. 2 and the petitioner has since been dissolved vide a decree of divorce dated 28.11.2017 of the Court of the Principal Judge, Family Court (West), Tis Hazari Courts, Delhi in HMA Petition No. 1690/17 under Sections 13B(2) of the Hindu Marriage Act, 1955 and the factum that pursuant to the said settlement, it has been agreed between the parties that a total sum of Rs.3.10 lacs in addition to a sum of Rs.18,000/- as observed in judgment dated 10.04.2017 in HMA vNo. 746/17 of the Principal Judge, Family Court (West), Tis Hazari Courts, Delhi was to be paid to the respondent no. 2 by the petitioner and the factum that out of the settled amount, a sum of Rs.2.10 lacs has already been received by the respondent no. 2 previously from the petitioner and the respondent no. 2 has testified to the effect that the balance sum of Rs.1.18 lacs has been received by her in the Court today vide two DDs bearing no. 261746 dated 02.12.217 for a sum of Rs.1 lacs drawn on

Union Bank of India, Ballabhgarh, photocopy of which is Ex.CW2/C and bearing no. 261748 dated 13.12.2017 for a sum of Rs.18,000/- drawn on Union Bank of India, Ballabhgarh, photocopy of which is Ex.CW2/D and the factum that the minor child namely Chhavi born out of the wedlock between the respondent no. 2 and the petitioner is in the custody of the respondent no. 2 and shall continue to remain in her custody and the factum that there are no claims of the respondent no. 2 left against the petitioner in relation to FIR No. 296/12, registered at PS Khayala, under Sections 498A/406 of the Indian Penal Code, 1860 as the marriage between her and the petitioner has been dissolved vide a decree of divorce dated 28.11.2017 of the Court of the Principal Judge, Family Court (West), Tis Hazari Courts, Delhi in HMA Petition No. 1690/17 under Sections 13B(2) of the Hindu Marriage Act, 1955 and that she has no opposition to the quashing of the FIR No. 296/12, registered at PS Khayala, under Sections 498A/406 of the Indian Penal Code, 1860, 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 petitioner and the respondents 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)

it is thus considered appropriate in the interest of justice that the prayer made by the petitioners seeking quashing of the FIR No. 296/12, registered at PS Khayala, under Sections 498A/406 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom is allowed against the petitioner Manoj Kapoor s/o Sh. Ram Lal, which is thus accordingly allowed, and the FIR No. 296/12, registered at PS Khayala, under Sections

498A/406 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefore are quashed.

The petition is disposed of.

ANU MALHOTRA, J

DECEMBER 19, 2017/MK