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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 622/2018 & CRL.M.A. 2260/2018**

UMESH KUMAR BAREJA & ORS Petitioner
Through: Ms. Sudershani Ray, Adv.

versus

NCT OF DELHI & ANR Respondent
Through: Mr. Izhar Ahmad, APP for State with
SI Azad Singh, PS Ranhola.
Mr. Pulkit Dandona, Adv. for R-2
with R-2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **06.02.2018**

On behalf of the petitioner it has been submitted that the petitioner no. 2 is unwell and thus unable to put in appearance today in Court.

Vide the present petition, the petitioner seeks quashing of FIR No.231/2016, registered at PS Ranhola, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom submitting to the effect that a settlement has been arrived at between the petitioners and the respondent no.2.

The Investigating Officer of the case present today in Court has identified the petitioner no.1 Shri Umesh Kumar Bareja, s/o Shri Charanjeet Lal Bareja and the petitioner no.3 Smt. Sudesh Kumari, w/o Shri Charanjeet Bareja and the photograph of the petitioner no.2 Shri Charanjeet Bareja on the record on the amended memo of parties as Ex. CW1/D as being the three accused arrayed in FIR No.231/2016, registered at PS Ranhola, under

Sections 498A/406/34 Indian Penal Code, 1860 and also identified the respondent no.2 Ms. Gunjan present today in Court as being the complainant thereof. The proofs of identity of the petitioner nos. 1 & 3 and of the respondent no. 2 in the form of photocopies of their Aadhar Cards are on the record as Ex. CW1/A to Ex. CW1/C respectively.

The respondent no.2 in her examination on oath by the Court has testified to having sworn her affidavit annexed to the petition as Ex.CW2/A and has further testified to the effect that she has also signed the mediation settlement dated 07.10.2016 arrived at between her and the petitioner at the Delhi Mediation Centre, THC, New Delhi, certified copy of which is on the record as Ex. CW2/B voluntarily of her own accord without any duress or coercion from any quarter. The respondent no.2 has further testified to the effect that in terms of the said settlement, a total sum of Rs. 4.95 lacs and a scooty bearing no. 7879 was to be handed over to her by the petitioners, of which a sum of Rs. 3.75 lacs and a scooty bearing no. 7879 has been received by her previously and the balance sum of Rs. 1.20 lacs has been handed over to her by the petitioner today in Court in the form of a demand draft bearing no. 019489 dated 31.01.2018 in her favour drawn on the Axis Bank Ltd., copy of which is on the record as Ex. CW2/D. The respondent no.2 has further testified to the effect that a sum of Rs. 1.25 lacs has received by her at the time of first motion petition and a sum of Rs. 1.25 lacs has been received at the time of the second motion petition and a sum of Rs. 1.25 lacs at the time of withdrawal of proceedings under Section 12 of the Protection of Women from Domestic Violence Act, 2005 along with a scooty bearing no. 7879 from the petitioners. The respondent no.2 has further testified to the effect that in terms of the said settlement arrived at

between her and the petitioners, the minor child born of the wedlock between her and the petitioner no.1 is in her custody and shall remain in her custody and further testified to the effect that she has done M.A. and works in networking and stated that she does not oppose the prayer made by the petitioners seeking quashing of the FIR in question and does not want the petitioners to be punished in relation thereto and she has submitted that she has to look after the future of her minor child.

In view of the deposition of the respondent no.2, there is no reason to disbelieve her statement that she has made her statement voluntarily of her own accord without any duress, coercion or pressure from any quarter.

Learned APP for the State submits that in the circumstances of the case, there is no opposition to the prayer made by the petitioner seeking quashing of the FIR in question.

As the matrimonial discord between the petitioner no.1 and the respondent no.2 has already been dissolved vide decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 09.10.2017 of the Court of the Principal Judge, Family Court, South-East, Saket, New Delhi in HMA No. 1082/17, copy of which is on the record as Ex. CW2/C, in view of the observations in 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 observations in 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 considered appropriate to put a quietus to the litigation for maintenance of peace and harmony between the petitioners and the respondent no.2, it is considered appropriate to allow the prayer made by the petitioners seeking quashing of FIR No.231/2016, registered at PS Ranhola, under Sections 498A/406/34 Indian Penal Code, 1860. and all the consequential proceedings emanating therefrom against the petitioners.

In view thereof the FIR No.231/2016, registered at PS Ranhola, under Sections 498A/406/34 Indian Penal Code, 1860. and all the consequential proceedings emanating therefrom against the petitioner nos. 1, 2 & 3 are quashed.

ANU MALHOTRA, J

FEBRUARY 06, 2018

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