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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 396/2018

PRAVESH GARG & ORS

..... Petitioner

Through: Counsel for petitioner (Appearance
not given.).

versus

THE STATE GOVT OF NCT OF DELHI & ANR..... Respondents

Through: Mr. Kamal Kumar Ghei, APP for
State with SI Arun Kumar, PS Bhajan
Pura.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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11.04.2018

Vide the present petition, the petitioners seek quashing of the FIR No.188/16, PS Bhajan Pura, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom submitting to the effect that all the disputes between the parties have been resolved and that the marriage between the petitioner no. 1 and the respondent no. 2 has since been dissolved by a decree of divorce through mutual consent.

The Investigating Officer of the instant case is present today in the Court and has identified the petitioner no. 1 Sh. Pravesh Garg s/o Sh. Subhash Chander Garg, the petitioner no. 2 Sh. Subhash Chander Garg s/o Sh. Late Paras Ram Garg, the petitioner no. 3 Smt. Anita Garg w/o Sh. Subhash Chander Garg, the petitioner no. 4 Sh. Ankush

Garg s/o Sh. Subhash Chander Garg as being the four accused persons arrayed in the FIR No.188/16, PS Bhajan Pura, under Sections 498A/406/34 of the Indian Penal Code, 1860 and there are no other persons arrayed as accused in the said FIR. He has also identified the respondent no. 2 as being the complainant thereof. The proof of identity of the petitioners no. 1 to 4 in the form of the photocopies of their Aadhar Cards and of the respondent no. 2 in the form of the photocopy of her Election Commission Card, are on record as Ex.CW1/A to Ex.CW1/E respectively, originals of which have been seen and returned.

The respondent no.2 in her deposition on oath by this court has affirmed having sworn her affidavit Ex. CW2/A annexed to the petition and has also testified to having signed the counselling cell agreement dated 20.04.2017, copy of which is on the record as Ex. CW2/B. She has testified to the effect that pursuant to the settlement arrived at between her and the petitioners, the marriage between her and the petitioner no. 1 has been dissolved by a decree of divorce through mutual consent under Section 13(B)(2) of the HMA in HMA No. 556/17 vide a decree of divorce of the Court of Principal Judge, Family Court, North District, KKD Courts, Delhi, certified copy of which decree sheet is on the record as Ex. CW2/C. She has further stated that there is no child born out of the wedlock between her and the petitioner no. 1 and has further testified to the effect that in terms of the settlement arrived at between her and the petitioners, a total sum of Rs. 18,00,000/- was to be paid to her by the petitioners, out of

which a sum of Rs. 12,00,000/- has been received by her previously and the balance sum of Rs. 8,00,000/- has been handed over to her today in the Court vide a demand draft bearing No.006943 dated 09.04.2018 drawn on the IDBI Bank, photocopy of which is on the record as Ex. CW2/D and also stated that there are now no claims of hers left against the petitioners.

On behalf of the State, there is no opposition to the prayer made by the petitioners seeking quashing of the FIR in question in view of the settlement arrived at between the parties.

The respondent no. 2 is apparently well educated having done her B.Ed, M.Com, there appears no reason to disbelieve her statement that she has arrived at a settlement with the petitioners voluntarily of her own accord without any duress, pressure or coercion from any quarter. In view thereof for maintenance of peace and harmony between the petitioners and the respondent no. 2 and for the well being of the respondent no. 2 herself, it is considered appropriate to put a quietus to the litigation between the parties 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 allow the prayer made by the petitioner seeking quashing of FIR No.188/16, PS Bhajan Pura, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners. In view thereof the FIR No.188/16, PS Bhajan Pura, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all the

consequential proceedings emanating therefrom against the petitioner no. 1 Sh. Pravesh Garg s/o Sh. Subhash Chander Garg, the petitioner no. 2 Sh. Subhash Chander Garg s/o Sh. Late Paras Ram Garg, the petitioner no. 3 Smt. Anita Garg w/o Sh. Subhash Chander Garg, the petitioner no. 4 Sh. Ankush Garg s/o Sh. Subhash Chander Garg are quashed.

The petition is disposed of.

ANU MALHOTRA, J

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Statement of CW1 : Investigating Officer SI Arun Kumar, PS Bhajan Pura.

ON S.A.

I identify the petitioner no. 1 Sh. Pravesh Garg s/o Sh. Subhash Chander Garg, the petitioner no. 2 Sh. Subhash Chander Garg s/o Sh. Late Paras Ram Garg, the petitioner no. 3 Smt. Anita Garg w/o Sh. Subhash Chander Garg, the petitioner no. 4 Sh. Ankush Garg s/o Sh. Subhash Chander Garg as being the four accused persons arrayed in the FIR No.188/16, PS Bhajan Pura, under Sections 498A/406/34 of the Indian Penal Code, 1860 and there are no other persons arrayed as accused in the said FIR. The proof of identity of the petitioners no. 1 to 4 in the form of the photocopies of their Aadhar Cards and of the respondent no. 2 in the form of the photocopy of her Election Commission Card, which are on record as Ex.CW1/A to Ex.CW1/E respectively. (originals seen and returned).

**RO & AC
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Statement of CW2 : Smt. Payal Goyal, d/o Sh. Suresh Goyal, aged 29 years r/o C-6, Block, H. No. 57, Yamuna Vihar, Delhi.

ON S.A.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.188/16, PS Bhajan Pura, under Sections 498A/406/34 of the Indian Penal Code, 1860 nor I do want the petitioners to be punished in relation thereto in view of the settlement arrived at between me and the petitioners.

My affidavit annexed to the petition bears my signatures thereon at points A & B on Ex. CW2/A which I have signed voluntarily of my own accord. The counselling Cell settlement dated 20.04.2017 bears my signatures at point A on each page thereon as visible on the certified copy, which is Ex. CW2/B. Pursuant to the settlement arrived at between me and the petitioners, the marriage between me and the petitioner no. 1 has been dissolved by a decree of divorce through mutual consent under Section 13(B)(2) of the HMA in HMA No. 556/17 vide a decree of divorce of the Court of Principal Judge, Family Court, North District, KKD Courts, Delhi, certified copy of which decree sheet is on the record as Ex. CW2/C.

There is no child born out of the wedlock between me and the petitioner no. 1. In terms of the settlement arrived at between me and the petitioners, a total sum of Rs. 18,00,000/- was to be paid to me by the petitioners, out of which a sum of Rs. 12,00,000/- has been received by me

previously and the balance sum of Rs. 8,00,000/- has been handed over to me today in the Court vide a demand draft bearing No.006943 dated 09.04.2018 drawn on the IDBI Bank, photocopy of which is on the record as Ex. CW2/D. There are now no claims of mine left against the petitioners.

I have done my B.Ed, M.Com.

I have made this statement voluntarily of my own accord without any duress, pressure or coercion from any quarter.

RO & AC
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ANU MALHOTRA, J

