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

+ CRL.M.C. 918/2018 & CrI. MA Nos. 3393-3394/2018

ABHISHEK JAIN & ORS

..... Petitioners

Through: Mr. Pankul Nagpal, Advocates

versus

GOVT OF NCT OF DELHI

..... Respondent

Through: Mr. Izhar Ahmad, APP for State

Ahmad, APP for the State

ASI Aman Kumar, PS, Nanakpura

R-2, in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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04.04.2018

Vide the present petition, the petitioners seeks quashing of FIR No. 26/2008 under sections 498A/406/34 Indian Penal Code, 1860 PS Nanakpura, submitting to the effect that a settlement has been arrived at between the parties at the Delhi Mediation Centre, Saket Court on 24.5.2017, pursuant to which the petitioner no.1 and respondent no. 2 are now living together without any dispute, between them.

On behalf of the State, at the outset, it is submitted that the co-accused Ms. Akanksha Jain has since been discharged on 12.12.2014 vide order of the MM Mahila Court, Dwarka, which fact is also affirmed by the Investigating Officer.

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 in view of the settlement

arrived at between the petitioners and the respondent no.2.

Respondent no. 2 has affirmed having sworn her affidavit also placed on record, which is Ex. CW-2/A and affirms that she is living with the petitioner.

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 in view of the settlement arrived at between the petitioners and the respondent no.2.

Respondent no.2 submits that she is an MBA and works as a designer and has made her statement voluntarily of her own accord without any duress, coercion or pressure from any quarter and taking into account the non-opposition on behalf of the State for maintenance of peace and harmony between the petitioners and the respondent no.2, it is considered essential to put a quietus to the litigation in view of the observations in the verdict of the Hon'ble Supreme Court 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. 26/2008 under sections 498A/406/34 Indian Penal Code, 1860 PS Nanakpura and all the consequential proceedings emanating therefrom against the petitioner.

In view thereof the FIR No. 26/2008 under sections 498A/406/34 Indian Penal Code, 1860 PS Nanakpura and all the consequential proceedings emanating therefrom against the petitioners are quashed.

The petition is disposed of.

ANU MALHOTRA, J

APRIL 04, 2018/P

Crl M C No. 918/2018

4.4.2018.

**STATEMENT OF ASI AMAN KUMAR, PS : NANAKPURA,
ON S.A.**

Shri Abhishek Jain, Shri Vidya Bhushan Jain, Smt. Shashi Jain are the accused in the FIR No. 26/2008 under Sections 498A/406/34 Indian Penal Code, 1860, PS Nanakpura, and Ms. Akanksha Jain has since been discharged while proceedings dated 12.12.2014 of the Court of MM Mahila Court, Dwarka, Delhi.

I identify the petitioner nos. 1 to 3. One of the accused is facing trial now in the said case.

I identify the complainant/respondent no.2, Smt. Priyanka Gupta Jain, who is present in Court. Proofs of identification is placed at page nos. 63,64, 65 and 68. The proves of identification of petitioner nos. 1 to 3 are annexed as Ex. CW-A to D (original seen and returned).

R.O. & A.C.

ANU MALHOTRA, J.

4TH APRIL, 2018

Crl M C No. 918/2018

4.4.2018.

STATEMENT OF MS. PRIYANKA GUPTA JAIN, W/O. MR. ABHISHEK JAIN, AGED 39 YRS, R/O. B-95, SECTOR- 52, NOIDA, PREVIOUSLY RESIDENT OF MAHARANI BAGH, DELHI, ON S.A.

I do not oppose the prayers made by the petitioner nos. 1 to 3 Shri Abhishek Jain, Shri Vidya Bhushan Jain & Smt. Shashi Jain, seeking quashing of FIR No. 26/2008 under Sections 498A/406/34 Indian Penal Code, 1860, PS Nanakpura, nor do I want the petitioners nos. 1 to 3 to be punished in relation to the said FIR. I also do not want Ms. Akanksha Jain to be punished in relation thereto.

I am peacefully living with the petitioner and our son Saksham Jain for the last one year without any problems. I am an MBA and work as designer. I am living at B-95, Noida. My affidavit bears my signatures are at Ex. CW-2/A.

The certified copy of the Mediation Settlement dated 4.5.2017 ex. CW-2/B arrived at before the Saket Court bears my signatures, at point A on each page thereof. I have signed both ex. CW-2/A and ex. CW-2/B voluntarily of my own will and without any pressure, duress or coercion from any quarter.

R.O. & A.C.

ANU MALHOTRA, J.

4TH APRIL, 2018