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

+ **CRL.M.C. 139/2018 & CRL.M.A. 605/2018**

DHARAM SINGH & ANR

..... Petitioner

Through Mr. Gaurav Seth, Adv.

versus

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

Through Mr. Kamal Kr. Ghei, APP for State
with SI Deepak PS I.P. Estate.
Mr. Giriraj Singh, Adv. for R2 with
R2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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12.01.2018

CRL.M.A. 605/2018

CRL.M.A. 605/2018 is an application filed on behalf of the petitioner seeking exemption from filing original documents. The same is allowed, subject to just exceptions.

The application is disposed of.

CRL.M.C. 139/2018

Vide the present petition, the petitioner no. 1 Dharam Singh s/o Sh. Jagdish Chand, the petitioner no. 2 Madan Singh s/o Sh. Jagdish Chand, the petitioner no. 3 Mahender Singh s/o Late Sh. Ram Kishan, the petitioner no.4 Smt. Daya w/o Sh. Mahender Kumar, the petitioner no. 5 Suresh Kumar s/o Sh. Rishi Pal and the petitioner no. 6 Sh. Hukum Singh s/o Late

Sh. Bhagwan Ram seek quashing of the FIR No. 108/08, registered at PS I.P. Estate, under Sections 323/354/506/34 of the Indian Penal Code, 1860 submitting *inter alia* to the effect that a Mediation Settlement dated 15.03.2012 at Tis Hazari Courts, Delhi has been arrived at between the parties.

The Investigating Officer has identified the petitioner no. 1 Dharam Singh s/o Sh. Jagdish Chand, the petitioner no. 2 Madan Singh s/o Sh. Jagdish Chand, the petitioner no. 3, Mahender Singh s/o Late Sh. Ram Kishan, the petitioner no. 5 Suresh Kumar s/o Sh. Rishi Pal and the petitioner no. 6 Sh. Hukum Singh s/o Late Sh. Bhagwan Ram present today in the court as being the only accused in relation to the FIR No. 108/08, registered at PS I.P. Estate, under Sections 323/354/506/34 of the Indian Penal Code, 1860. He has also identified the respondent no. 2 Vinita Rani present today in the court i.e. the complainant of the FIR No. 108/08, registered at PS I.P. Estate, under Sections 323/354/506/34 of the Indian Penal Code, 1860. Photocopies of the proof of identity of the petitioners and respondent no. 2 in the form of their Aadhar cards are on the record, which are Ex.CW1/A to Ex.CW1/F respectively (originals of which have been seen and returned).

The petitioner no. 4 is not present today in the Court and it has been submitted on behalf of the petitioners by the learned counsel present on behalf of the petitioners that she is an old aged lady and unable to put in appearance today. The petitioner no. 4 has been identified through the testimony of the respondent no. 2 i.e. the complainant, who has identified the photograph of the petitioner no. 4 on Ex.CW2/C.

The respondent no. 2 present today in the Court, has been examined

by the Court and she has testified to her affidavit annexed to the petition bearing her signatures thereon at points-A and B on Ex.CW2/A, which she states that 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 15.03.2012 at Tis Hazari Courts, Delhi has been arrived at between her and the petitioners and the marriage between her and the petitioner no. 1 has since been dissolved vide a decree of divorce. She has further testified to the effect that the FIR No. 372/2007, registered at PS Hauz Quazi against the petitioners has already been quashed and all other proceedings i.e. the Execution Petitions in relation to the case u/s 125 of the Criminal Procedure Code, 1973 and the complaint case, which are pending in the Court of Sh. Anil Kumar learned MM, Delhi have since been disposed of and that pursuant to the said settlement, she has already received a sum of Rs.3,10,000/- from the petitioners towards all her claims and that now there are no claims of hers left against the petitioners. She has further testified to the effect that there is no child of the wedlock between her and the petitioner no. 1 and that she has studied till 12th standard and that she has no opposition to the prayer made by the petitioners seeking quashing of the FIR No. 108/08, registered at PS I.P. Estate, under Sections 323/354/506/34 of the Indian Penal Code, 1860 and that she does not want any of the petitioners to be punished in relation thereto as the marriage between her and the petitioner no. 1 has since been dissolved vide a decree of divorce.

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. 108/08, registered at PS I.P. Estate, under Sections 323/354/506/34 of the Indian Penal Code, 1860.

Taking into account the statement made by the respondent no. 2 and the factum that a Mediation Settlement dated 15.03.2012 at Tis Hazari Courts, Delhi has been arrived at between the parties and the marriage between the respondent no. 2 and the petitioner no. 1 has since been dissolved and the factum that pursuant to the said settlement the FIR No. 372/2007, registered at PS Hauz Quazi against the petitioners has already been quashed and all other proceedings i.e. the Execution Petitions in relation to the case u/s 125 of the Criminal Procedure Code, 1973 and the complaint case, which are pending in the Court of Sh. Anil Kumar learned MM, Delhi have since been disposed of and that pursuant to the said settlement she has already received a sum of Rs.3,10,000/- from the petitioners towards all her claims and that now there are no claims of hers left against the petitioner, thus to maintain peace and harmony 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.....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.”

(emphasis supplied)

and in the case of *Jitendra Raghuvanshi & Ors. Vs. Babita Raghuvanshi & Anr. (2013) 4 SCC 58*, wherein the Supreme Court in respect of the matrimonial disputes has specifically held as follows:-

“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. 108/08, registered at PS I.P. Estate, under Sections 323/354/506/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom is allowed and thus the FIR No. 108/08, registered at PS I.P. Estate, under Sections 323/354/506/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioner no. 1 Dharam Singh s/o Sh. Jagdish Chand, the petitioner no. 2 Madan Singh s/o Sh. Jagdish Chand, the petitioner no. 3 Mahender Singh s/o Late Sh. Ram Kishan, the petitioner no.4 Smt. Daya w/o Sh. Mahender Kumar, the petitioner no. 5 Suresh Kumar s/o Sh. Rishi Pal and the petitioner no. 6 Sh. Hukum Singh s/o Late Sh. Bhagwan Ram are quashed.

The petition is disposed of.

ANU MALHOTRA, J

JANUARY 12, 2018/MK