

\$~26

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

+ **CRL.M.C. 142/2018 & CRL.M.A. 608/2018**

SANJAY SHARMA @ SANJU & ORS Petitioner

Through Ms. Kamlesh Sabharwal, Adv. with
Mr. Hukam Chand, Adv. with
petitioners in person.

versus

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

Through Mr. Izhar Ahmad, APP for State with
SI Jagdish Singh PS Burari.
R2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **12.01.2018**

CRL.M.A. 608/2018

CRL.M.A. 608/2018 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. 142/2018

Vide the present petition, the petitioner no. 1 Sanjay Sharma, @ Sanju s/o Sh. Ram Avtar Sharma, the petitioner no. 2 Smt. Virma Devi w/o Sh. Ram Avtar Sharma, the petitioner no. 3 Ram Avtar Sharma s/o Sh. Amar Singh and the petitioner no. 4 Smt. Sheetu w/o Sh. Krishan seek quashing of the FIR No. 248/13, registered at PS Burari, under Sections 498A/406/34 of

the Indian Penal Code, 1860 submitting to the effect that a settlement has been arrived at between the parties.

The Investigating Officer has identified the petitioner no. 1 Sanjay Sharma, @ Sanju s/o Sh. Ram Avtar Sharma, the petitioner no. 2 Smt. Virma Devi w/o Sh. Ram Avtar Sharma, the petitioner no. 3 Ram Avtar Sharma s/o Sh. Amar Singh and the petitioner no. 4 Smt. Sheetu w/o Sh. Krishan as being the accused in relation to FIR No. 248/13, registered at PS Burari, under Sections 498A/406/34 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. 248/13, registered at PS Burari, under Sections 498A/406/34 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 her affidavit annexed to the petition bears her signature thereon at points-A and B on Ex.CW2/A and the Counselling Cell Settlement arrived at in the Court of learned Principal Judge, Tis Hazari Courts Central, Delhi, bears her signature thereon at points-A on Ex.CW2/B and that she has signed the said documents voluntarily of her own accord without any duress, pressure or coercion from any quarter. She has testified to the effect that the marriage between her and the petitioner no. 1 Sanjay Sharma @ Sanju s/o Sh. Ram Avtar Sharma has since been dissolved vide a decree of divorce dated 19.09.2017 of the Court of the Principal Judge, Family Court (Central District), Tis Hazari Courts,

Delhi in HMA Petition No. 988/17 under Sections 13B(2) of the Hindu Marriage Act, 1955 and that pursuant to the said settlement, she has previously received a sum of Rs.4 lacs and a sum of Rs.1 lakh. She has further testified that today she has received a cheque bearing no. 949002 dated 12.01.2018 for a sum of Rs.1 lakh drawn on Syndicate Bank, Luharli Branch, Gautam Budh Nagar from the petitioners, photocopy of which is on record as Ex.CW2/C. She further testified that now there are no claims of hers left against the petitioners and that she does not oppose the prayer made by the petitioners seeking quashing of the FIR No. 248/13, registered at PS Burari, under Sections 498A/406/34 of the Indian Penal Code, 1860 and that she does not want any of the petitioners to be punished and that she has made her statement voluntarily of her own accord without any duress, pressure or coercion from any quarter.

The petitioner no. 3 Ram Avtar Sharma s/o Sh. Amar Singh is also present today in the Court and has identified his signatures at point-A on the cheque bearing no. 949002 dated 12.01.2018 for a sum of Rs.1 lakh in favour of the respondent no. 2 Sunita and has undertaken that the said cheque would be honoured and has stated that previous two cheques issued to the respondent no. 2 have also been honoured.

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. 248/13, registered at PS Burari, under Sections 498A/406/34 of the Indian Penal Code, 1860.

Taking into account the statement made by the respondent no. 2 present today in the court i.e. the complainant of the FIR No. 248/13,

registered at PS Burari, under Sections 498A/406/34 of the Indian Penal Code, 1860 and the factum that a Counselling Cell Settlement has been arrived at in the Court of learned Principal Judge, Tis Hazari Courts Central, Delhi between the parties and the factum that the marriage between the respondent no. 2 and the petitioner no. 1 Sanjay Sharma @ Sanju s/o Sh. Ram Avtar Sharma has since been dissolved vide a decree of divorce dated 19.09.2017 of the Court of the Principal Judge, Family Court (Central District), Tis Hazari Courts, Delhi in HMA Petition No. 988/17 under Sections 13B(2) of the Hindu Marriage Act, 1955 and that pursuant to the settlement, the respondent no. 2 has previously received a sum of Rs.4 lacs and today she has received a cheque bearing no. 949002 dated 12.01.2018 for a sum of Rs.1 lakhs drawn on Syndicate Bank, Loharli Branch, Gautam Budh Nagar from the petitioners, there appears no reason to disbelieve that the statements made by the respondent no. 2 and the petitioner no. 3 have been made voluntarily of their own accord without any duress, pressure or coercion from any quarter. 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..... 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)

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. 248/13, registered at PS Burari, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom is allowed against the petitioner no. 1 Sanjay Sharma, @ Sanju s/o Sh. Ram Avtar Sharma, the

petitioner no. 2 Smt. Virma Devi w/o Sh. Ram Avtar Sharma, the petitioner no. 3 Ram Avtar Sharma s/o Sh. Amar Singh and the petitioner no. 4 Smt. Sheetu w/o Sh. Krishan, which is thus accordingly allowed, and the FIR No. 248/13, registered at PS Burari, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefore are quashed and the petitioner no. 3 shall remain bound by his undertaking that cheque bearing no. 949002 dated 12.01.2018 for a sum of Rs.1 lakh in favour of the respondent no. 2 Sunita, would be honoured.

The petition is disposed of.

ANU MALHOTRA, J

JANUARY 12, 2018/MK

CRL.M.C. 142/2018 & CRL.M.A. 608/2018
SANJAY SHARMA @ SANJU & ORS versus
THE STATE GOVT OF NCT OF DELHI & ANR

Statement of the CW1 : SI Jagdish Singh PS Burari, Delhi
ON S.A.

I identify the petitioner no. 1 Sanjay Sharma, @ Sanju s/o Sh. Ram Avtar Sharma, the petitioner no. 2 Smt. Virma Devi w/o Sh. Ram Avtar Sharma, the petitioner no. 3 Ram Avtar Sharma s/o Sh. Amar Singh and the petitioner no. 4 Smt. Sheetu w/o Sh. Krishan as being the only accused in relation to the FIR No. 248/13, registered at PS Burari, under Sections 498A/406/34 of the Indian Penal Code, 1860. I also identify the respondent no. 2 Sunita present today in the court i.e. the complainant of the FIR No. 248/13, registered at PS Burari, under Sections 498A/406/34 of the Indian Penal Code, 1860. Photocopies of the proof of identity of the petitioners and respondent no. 2 are on the record, which are Ex.CW1/A to Ex.CW1/E respectively (originals of which have been seen and returned).

ANU MALHOTRA, J

RO & AC
JANUARY 12, 2018/MK

CRL.M.C. 142/2018 & CRL.M.A. 608/2018
SANJAY SHARMA @ SANJU & ORS versus
THE STATE GOVT OF NCT OF DELHI & ANR

**Statement of the CW2 : Sunita d/o Sh. Prem Pal Sharma r/o Gali No. 4,
Near Jharoda Police Chowki, Sangar Vihar, Jharoda, Burari, Delhi -84.
ON S.A.**

My affidavit annexed to the petition bears my signature thereon at points-A and B on Ex.CW2/A and the Counselling Cell Settlement arrived at in the Court of learned Principal Judge, Tis Hazari Courts Central, Delhi, bears my signature thereon at points-A on Ex.CW2/B. I have signed the said documents voluntarily of my own accord without any duress, pressure or coercion from any quarter. The marriage between me and the petitioner no. 1 Sanjay Sharma @ Sanju s/o Sh. Ram Avtar Sharma has since been dissolved vide a decree of divorce dated 19.09.2017 of the Court of the Principal Judge, Family Court (Central District), Tis Hazari Courts, Delhi in HMA Petition No. 988/17 under Sections 13B(2) of the Hindu Marriage Act, 1955. Pursuant to the settlement arrived at between me and the petitioners, I have previously received a sum of Rs.4 lacs and a sum of Rs.1 lakh has been received by me today from the petitioners vide cheque bearing no. 949002 dated 12.01.2018 drawn on Syndicate Bank, Loharli Branch, Gautam Budh Nagar, photocopy of which is on record as Ex.CW2/C. Now there are no claims of mine left against the petitioners and I do not oppose the prayer made by the petitioners seeking quashing of the FIR No. 248/13, registered at PS Burari, under Sections 498A/406/34 of the Indian Penal Code, 1860 nor I do want any of the petitioners to be punished. I have made

this statement voluntarily of my own accord without any duress or coercion from any quarter.

ANU MALHOTRA, J

**RO & AC
JANUARY 12, 2018/MK**

CRL.M.C. 142/2018 & CRL.M.A. 608/2018
SANJAY SHARMA @ SANJU & ORS versus
THE STATE GOVT OF NCT OF DELHI & ANR

**Statement of the CW3 : Ram Avtar Sharma s/o Sh. Amar Singh, aged
62 years r/o Luharli, Gautam Budh Nagar, UP – 203207.**

ON S.A.

I undertake that the cheque bearing no. 949002 dated 12.01.2018 drawn on Syndicate Bank, Luharli Branch, Gautam Budh Nagar in favour of the respondent no. 2 Sunita present today in the court i.e. the complainant of the FIR No. 248/13, registered at PS Burari, under Sections 498A/406/34 of the Indian Penal Code, 1860, for a sum of Rs.1 lakh drawn on Syndicate Bank, Luharli Branch, Gautam Budh Nagar would be honoured (photocopy of the said cheque is Ex.CW2/C). Previous two cheques have also been honoured.

ANU MALHOTRA, J

**RO & AC
JANUARY 12, 2018/MK**