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

+ CRL.M.C. 200/2018

MANJIT SINGH & ORS Petitioner

Through: Ms. Neha Pamnani, Adv.

versus

THE STATE NCT OF DELHI & ANR Respondent

Through: Mr. Raghuvinder Varma, APP for
State with W/ASI Anita Dagar, PS
Najafgarh.

AND

CRL.M.C. 201/2018

MANJIT SINGH & ORS Petitioner

Through: Ms. Neha Pamnani, Adv.

versus

THE STATE NCT OF DELHI & ANR Respondent

Through: Mr. Raghuvinder Varma, APP for
State with ASI Tej Ram, PS
Najafgarh.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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16.01.2018

Vide the present petition, the petitioner no.1 Shri Manjit Singh, s/o Shri Ranbir Singh and the petitioner no. 2 Shri Ranbir Singh Kadian, s/o late Shri Jage Ram seek quashing of the FIR No.99/2015, registered at PS Najafgarh, under Sections 498A/406/34 Indian Penal

Code, 1860 submitting *inter alia* to the effect that a settlement has been arrived at between respondent no.2 and the petitioners at the Dwarka Courts, Delhi pursuant to the Memorandum of Understanding dated 30.06.2017, copy of which is on the record as Ex. CW2/B as a consequence of which all differences between the parties have been settled.

The Investigating Officer of the case is present and has identified the petitioners as being the accused and the respondent no.2 as being the complainant qua the FIR No.99/2015, registered at PS Najafgarh, under Sections 498A/406/34 Indian Penal Code, 1860.

The proofs of identity of petitioner nos. 1 & 2 and of the respondent no. 2 are on the record as Ex. CW1/A to C respectively. (Originals seen and returned).

The respondent no. 2 on her examination in oath by the Court has affirmed having signed her affidavit Ex. CW2/A annexed to the petition and also the Memorandum of Understanding dated 30.06.2017, copy of which is on the record as Ex. CW2/B voluntarily of her own accord and without any duress, coercion or pressure from any quarter.

She has further testified to the effect that pursuant to the settlement arrived at between her and the petitioners, a total sum of Rs. 20 lacs was to be paid to her by the petitioners, out of which a sum of Rs. 16 lacs has already been received by her previously and a balance sum of Rs. 4 lacs has been received by her today in Court vide the demand draft bearing no. 255568 dated 18.12.2017 in her favour drawn on the Axis Bank Ltd., photocopy of which is on the

record as CW2/C and she has further testified to the effect that now there are no claims of hers left against the petitioners. Pursuant to the Memorandum of Understanding dated 30.06.2017, placed on the record as Ex. CW2/B she has testified to the effect that there is a minor child born of the wedlock between her and the petitioner no.1 and the minor child named Khwashish is in her custody and shall remain in her custody.

The marriage between respondent no.2 and the petitioner no.1 has since been dissolved vide the decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 in HMA No. 3203/17 vide decree of divorce dated 20.11.2017 of the Court of the Judge, Family Court, Dwarka Courts, New Delhi, photocopy of which is on the record as Ex. CW2/D.

The respondent no. 2 is educated and an MBA and works on contract basis in a hospital.

In view of the statement made by the respondent no.2, there is no reason to disbelieve her statement that she has arrived at a settlement with the petitioner no. 1 voluntarily of her own accord and without any duress, coercion or pressure from any quarter.

Learned APP for the State in the circumstances of the case does not oppose the prayer made by the petitioner seeking quashing of the FIR in question

Vide the petition CrI. M.C. 201/2018, the petitioner seeks quashing of FIR No. 965/14, PS Najafgarh, under Sections 380/454 of Indian Penal Code, 1860 in view of similar submissions to the effect

that a settlement has been arrived at between the petitioner and the

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respondent no.2 pursuant to the Memorandum of Understanding dated 30.06.2017 and due to dissolution of marriage between the petitioner no.1 and the respondent no.2 vide the decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 in HMA No. 3203/17 vide decree of divorce dated 20.11.2017 of the Court of the Judge, Family Court, Dwarka Courts, New Delhi as mentioned hereinabove.

The Investigating Officer of the case ASI Tej Ram has also identified the petitioner nos. 1 & 2 and submits that the petitioner no. 1 alone was arrayed as accused and the charge-sheet file was returned untraced. He has also identified the respondent no.2 as being the complainant qua the FIR No. 965/14, PS Najafgarh, under Sections 380/454 of Indian Penal Code, 1860.

In her examination on oath by the Court, the respondent no.2 has testified to the effect that in view of the settlement arrived at between her and the petitioners, she does not oppose the prayer made by the petitioner seeking quashing of FIR No. 965/14, PS Najafgarh, under Sections 380/454 of Indian Penal Code, 1860 as well. Copy of the demand draft bearing no. 255568 dated 18.12.2017 drawn on the Axis Bank Ltd., photocopy of which is on the record as CW2/C has also been received by the respondent no.2 and further testified to the effect that there are no claims of hers left against the petitioner.

In the instant case also, the learned APP for State does not oppose the prayer made by the petitioner.

Taking into account the circumstances of the case as it apparently appears that both the FIRs in question emanate from the

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matrimonial discord between the petitioner no.1 and the respondent no.2 which matrimonial discord has since been resolved by the dissolution of marriage between the petitioner no.1 and the respondent no.2 vide decree of divorce dated 20.11.2017 in HMA No. 3203/17 of the Court of the Judge, Family Court, Dwarka Courts, New Delhi, photocopy of which is on the record as Ex. CW2/D, in view of 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

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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 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

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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 to put a quietus to the litigation between the parties so that the peace and harmony between them is restored in view thereof the FIR No. 965/14, PS Najafgarh, under Sections 380/454 of Indian Penal Code, 1860 and the FIR No.99/2015, registered at PS Najafgarh, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioner no.1 Shri Manjit Singh and the petitioner no. 2 Shri Ranbir Singh are quashed

The petition is disposed of.

ANU MALHOTRA, J

JANUARY 16, 2018

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CRL.M.C. 200/2018

MANJIT SINGH & ORS

Vs. THE STATE NCT OF DELHI & ANR

Statement of CW1 : W/ASI Anita Dagar, PS Najafgarh, Delhi.

ON S.A.

I identify the petitioner no.1 Shri Manjit Singh, s/o Shri Ranbir Singh as being the accused in relation to the FIR No.99/2015, registered at PS Najafgarh, under Sections 498A/406/34 Indian Penal Code, 1860 and I also identify the petitioner no. 2 Shri Ranbir Singh Kadian, s/o late Shri Jage Ram and I also identify the respondent no. 2 Smt. Sarita as being the complainant of the FIR in question present today in court. The proofs of identity of petitioner nos. 1 & 2 and of the respondent no. 2 are on the record as Ex. CW1/A to C respectively (originals seen and returned).

Apart from the petitioner no. 1 & 2 there are no other persons arrayed as accused in the said FIR.

RO & AC
JANUARY 16, 2018

ANU MALHOTRA, J

Statement of CW2 : Smt. Sarita, d/o Shri Naresh Lal, aged 30 years r/o VPO, CHhawla, Najafgarh, New Delhi.

ON S.A.

My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/A. A settlement has been arrived at between me and the petitioners at Dwarka Courts, Delhi pursuant to the Memorandum of Understanding dated 30.06.2017, copy of which bears my signature at point-A thereon on Ex. CW2/B. I have signed all these documents voluntarily of my own accord without any duress, pressure or coercion from any quarter. Pursuant to the settlement arrived at between me and the petitioners, a total sum of Rs. 20 lacs was to be paid to me by the petitioners, out of which a sum of Rs. 16 lacs has already been received by me previously and a balance sum of Rs. 4 lacs has been received by me today in Court vide the demand draft bearing no. 255568 dated 18.12.2017 in my favour drawn on the Axis Bank Ltd., photocopy of which is on the record as CW2/C. Now there are no claims of mine left against the petitioners. The marriage between me and the petitioner no.1 has since been dissolved vide the decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 in HMA No. 3203/17 vide decree of divorce dated 20.11.2017 of the Court of the Judge, Family Court, Dwarka Courts, New Delhi, photocopy of which is on the record as Ex. CW2/D. I am an MBA and presently work in a hospital on contract basis.

As per the settlement arrived at between me and the petitioners, the minor child named Khwashish is in my custody and shall remain in my custody.

I do not oppose the prayer made by the petitioner seeking quashing of the FIR No.99/2015, registered at PS Najafgarh, under Sections 498A/406/34 Indian Penal Code, 1860 nor do I want the petitioners to be punished in relation thereto.

The petitioner no. 3 has already expired.

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

ANU MALHOTRA, J

**RO & AC
JANUARY 16, 2018**