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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 1433/2018
SUNIL KUMAR & ANR. Petitioner
Through: Mr. Susheel Kumar Tiwari, Adv.

versus

STATE & ANR. Respondent
Through: Mr. Hirein Sharma, APP for State
with ASI Aman Kumar, PS
CWC/Nanak Pura.
Mr. Dinesh Kumar Mudgal, Adv. for
R-2.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **20.03.2018**

Vide the present petition, the petitioner seeks quashing of FIR No.142/2013, registered at PS CWC Nanak Pura, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom submitting to the effect that the petitioners and the respondent no.2 have arrived at a settlement.

The Investigating Officer of the case present today in Court has identified the petitioner no.1 Shri Sunil Kumar, s/o Shri Daya Shankar Chaurasiya, petitioner no.2 Shri Daya Shankar Chaurasiya, s/o Shri Shiv Shankar Prasad, petitioner no.3 Smt. Chander Wati, w/o Shri Daya Shankar Chaurasiya and petitioner no.5 Smt. Seema, w/o Shri Manoj Kumar present today in Court and the photograph of the petitioner no.4 Shri Manoj Kumar who is stated to be unable to present today, placed at page no. 27 of the petition as being the five accused arrayed in FIR No.142/2013, registered at

PS CWC Nanak Pura, under Sections 498A/406/34 Indian Penal Code, 1860 and has also identified the respondent no.2 Ms. Poornima @ Sinny present today in Court as being the complainant thereof. The proofs of identity of the petitioner nos. 1, 2, 3 & 5 in the form of photocopies of documents produced by them are on the record as Ex. CW1/A to Ex. CW1/D and of the respondent no. 2 in the form of photocopy of her Election Commission I-Card is on the record as Ex. CW2/A, originals of which have been seen and returned.

The respondent no.2 in her examination on oath by the Court has testified to having sworn her affidavit annexed to the petition as Ex.CW2/D and has further testified to the effect that she has also signed the mediation settlement dated 24.11.2015 arrived at the Mediation Centre, Dwarka Courts, Delhi, certified copy of which is on the record as Ex. CW2/C voluntarily of her own accord without any duress or coercion from any quarter. The respondent no.2 has further testified to the effect that the marriage between her and the petitioner no.1 has been dissolved vide a decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 13.02.2017 of the Court of the Principal Judge (South-East), Family Courts, Saket Courts, New Delhi in HMA No. 227/2017, copy of which is on the record as Ex. CW2/B and that there is no child born of the wedlock between her and the petitioner no.1. She has also stated that in terms of the settlement arrived at between her and the petitioners, a total sum of Rs.70,000/- was to be paid to her by the petitioners, of which the entire amount has been received by her during the proceedings under Section 13(B)(1) and under Section 13(B)(2) of the Hindu Marriage Act, 1955 and that there are no claims of hers left against

the petitioners now and that she is an under-graduate and made her statement voluntarily of her own accord.

Learned APP for the State submits that in view of the settlement arrived at between the parties, there is no opposition to the prayer made by the petitioner seeking quashing of the FIR in question.

In view of the deposition of the respondent no.2, there is no reason to disbelieve her statement that she has arrived at a settlement with the petitioners voluntarily of her own accord without any duress, coercion or pressure from any quarter and taking into account the dissolution of marriage between the petitioner no.1 and the respondent no.2 vide a decree of divorce through mutual consent vide decree dated 13.02.2017 and all claims between the petitioners and the respondent no.2 having been settled as testified by the petitioners and the respondent no.2 and taking into account the non-opposition on behalf of the State, it is considered appropriate to put a quietus to the litigation between the parties for maintenance of peace and harmony between them, 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)

the FIR No.142/2013, registered at PS CWC Nanak Pura, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner nos. 1 to 5 are quashed.

ANU MALHOTRA, J

MARCH 20, 2018

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Statement of CW1 : ASI Aman Kumar, PS CWC Nanak Pura, Delhi.

ON S.A.

I identify the petitioner no.1 Shri Sunil Kumar, s/o Shri Daya Shankar Chaurasiya, petitioner no.2 Shri Daya Shankar Chaurasiya, s/o Shri Shiv Shankar Prasad, petitioner no.3 Smt. Chander Wati, w/o Shri Daya Shankar Chaurasiya and petitioner no.5 Smt. Seema, w/o Shri Manoj Kumar present today in Court and the photographs of the petitioner no.4 Shri Manoj Kumar placed at page no. 27 of the petition as being the five accused arrayed in FIR No.142/2013, registered at PS CWC Nanak Pura, under Sections 498A/406/34 Indian Penal Code, 1860. I also identify the respondent no.2 Ms. Poornima @ Sinny present today in Court as being the complainant thereof. The proofs of identity of the petitioner nos. 1, 2, 3 & 5 in the form of photocopies of documents produced by them are on the record as Ex. CW1/A to Ex. CW1/D and of the respondent no. 2 in the form of photocopy of her Election Commission I-Card is on the record as Ex. CW2/A. (Originals seen and returned.)

There are no other persons arrayed as accused in the said FIR.

ANU MALHOTRA, J

**RO & AC
MARCH 20, 2018**

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Vs. STATE & NAR.

Statement of CW2 : Smt. Poornima @ Sinny, d/o Shri Shankar, aged 29 years, r/o N-183, Gali No.7, Saurabh Vihar, Jaitpur, Badarpur, New Delhi.

ON S.A.

I have brought my original Aadhar Card, copy of which is on the record as Ex. CW2/A.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.142/2013, registered at PS CWC Nanak Pura, under Sections 498A/406/34 Indian Penal Code, 1860 nor do I want the petitioners to be punished in relation thereto.

The marriage between me and the petitioner no.1 has been dissolved vide a decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 13.02.2017 of the Court of the Principal Judge (South-East), Family Courts, Saket Courts, New Delhi in HMA No. 227/2017, copy of which is on the record as Ex. CW2/B. There is no child born of the wedlock between me and the petitioner no.1.

My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/D. The Mediation Settlement dated 24.11.2015 bears my signature thereon on each page at point-A thereof on Ex. CW2/C. I have signed both 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.70,000/- was to be paid to me by the petitioners, of which

the entire amount has been received by me during the proceedings under Section 13(B)(1) and under Section 13(B)(2) of the Hindu Marriage Act, 1955 and there are no claims of mine left against the petitioners now.

I am an under Graduate

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

ANU MALHOTRA, J

RO & AC
MARCH 20, 2018