

\$~3

*

+

IN THE HIGH COURT OF DELHI AT NEW DELHI

CRL.M.C. 197/2018

VIJENDER SINGH & ORS

..... Petitioner

Through: Mr. Arun Nischal, Advocate.

versus

THE STATE GOVT OF NCT OF DELHI & ANR Respondents

Through: Mr. Sanjeev Sabharwal, APP for State
with SI Vikram Singh, PS Punjabi
Bagh.

R-2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

%

22.03.2018

Pursuant to the proceedings dated 16.01.2018, the amended petition has been filed by the petitioners with the prayer seeking quashing of the FIR No. 65/15, PS Punjabi Bagh under Sections 498-A/406/34 of the Indian Penal Code, 1860 lodged on the complaint of the respondent no. 2 against the petitioners submitting to the effect that a settlement has been arrived at between the parties that the petitioner no. 1 and the respondent no. 2 are now living together. The amended petition is thus taken on record and the proceedings in relation thereto have been conducted.

The Investigating Officer of the case is present today in the Court and has identified the petitioner No. 1 Vijender Singh, petitioner no. 2 Laxman Singh, petitioner no. 3 Suresh Devi,

petitioner no. 4 Ravinder, petitioner no. 5 Varsha, petitioner no. 6 Randheer Singh, petitioner no. 7 Barkha, petitioner no. 8 Satish Kumar, petitioner no. 9 Pinki and petitioner no. 10 Roshni Devi arrayed as being the ten accused in the FIR no. 65/15, PS Punjabi Bagh under Sections 498-A/406/34 of the Indian Penal Code, 1860 and has also identified the respondent no. 2, Ms. Nisha as being the complainant of the said FIR present in Court today.

The respondent no. 2 in her examination on oath by the Court has testified to the factum of her living with the minor daughter namely Yashita aged 5 years with the petitioner no. 1 since July two years ago and submits that there are now no problems between her and all the petitioners. She further stated that she does not oppose the prayer made by the petitioners seeking quashing of the FIR in question and nor does she want them to be punished in relation thereto. She has further testified to the effect that she has studied till Standard 12th and she is a house wife and further stated that she has made her statement voluntarily of her own accord without any duress, coercion or pressure from any quarter.

There appears 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. In the circumstances of the present case, in view of the identification of the petitioners and the respondent no. 2 by the Investigating Officer there being no opposition on behalf of the State to the prayer made by the petitioners seeking quashing of the FIR in question and thus, it is

considered essential for maintenance of peace and harmony between the parties to put a quietus to the litigation between the parties and for the well being of the respondent no. 2 and her minor daughter, 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)

In view thereof, the FIR no. 65/15, PS Punjabi Bagh under Sections 498-A/406/34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner No. 1 Vijender Singh, petitioner no. 2 Laxman Singh, petitioner no. 3 Suresh Devi, petitioner no. 4 Ravinder, petitioner no. 5 Varsha, petitioner no. 6 Randheer Singh, petitioner no. 7 Barkha, petitioner no. 8 Satish Kumar, petitioner no. 9 Pinki and petitioner no. 10 Roshni Devi are thus quashed.

ANU MALHOTRA, J

MARCH 22, 2018
NC

Item No. 3
CRL.M.C. 197/2018
VIJENDER SINGH & ORS Vs. STATE AND ANR.
22.03.2018

CW-1 SI Vikran Singh, Police Station Punjabi Bagh.

ON S.A.

I identify the petitioner No. 1 Vijender Singh, petitioner no. 2 Laxman Singh, petitioner no. 3 Suresh Devi, petitioner no. 4 Ravinder, petitioner no. 5 Varsha, petitioner no. 6 Randheer Singh, petitioner no. 7 Barkha, petitioner no. 8 Satish Kumar, petitioner no. 9 Pinki and petitioner no. 10 Roshni Devi arrayed as being the ten accused in the FIR no. 65/15, PS Punjabi Bagh under Sections 498-A/406/34 of the Indian Penal Code, 1860. I also identify the respondent no. 2, Ms. Nisha as being the complainant of the said FIR present in Court today.

RO & AC
MARCH 22, 2018.

ANU MALHOTRA, J

Item No. 3

CRL.M.C. 197/2018

VIJENDER SINGH & ORS Vs. STATE AND ANR.

Statement of CW2 : Ms. Nisha, w/o Vijender Singh, age 35 years, presently residing at Bahadurgarh Haryana and previously r/o H. No. 329, Y- Block, Mangolpuri, North West , Delhi.

ON S.A.

I am presently residing at Bahadurgarh Haryana with my spouse namely Vijender Singh present today in Court for approximately 2 years now from July 2 years ago. I have a daughter from the wedlock between me and the petitioner no. 1 and the child now lives with me and the petitioner no. 1. Presently the petitioner nos. 2, 3,4 & 5 live at H. NO. 329- Y- Block, Mangolpuri, North West, Delhi. There are now no problems between me and the petitioner no. 1 nor do I have any problems witht the petitioner nos. 2 to 10, i.e., petitioner no. 2 Laxman Singh, petitioner no. 3 Suresh Devi, petitioner no. 4 Ravinder, petitioner no. 5 Varsha, petitioner no. 6 Randheer Singh, petitioner no. 7 Barkha, petitioner no. 8 Satish Kumar, petitioner no. 9 Pinki and petitioner no. 10 Roshni Devi. I do not oppose the prayer made by the petitioners seeking quashing of the FIR no. 65/15, PS Punjabi Bagh under Sections 498-A/406/34 of the Indian Penal Code, 1860 nor do I want petitioner nos. 1 to 10 to be punished in relation thereto. I am living peacefully with the petitioner no. 1 and my minor daughter namely Yashita for approximately 2 years and I have now no problems with the petitioner.

I have studied till Standard 12th and I am a house wife.

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 22, 2018**