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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 383/2018**
UMA SHANKAR & ORS Petitioner
Through: Mr. Naresh Talwar, Adv.

versus

THE STATE GOVT OF NCT OF DELHI & ANR..... Respondent
Through: Mr. Izhar Ahmad, APP for State with
W/SI Veena, PS Keshav Puram.
R-2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

% **ORDER**
24.01.2018

Vide the present petition, the petitioners seek quashing of FIR No.267/14, registered at PS Keshav Puram, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom submitting to the effect that a settlement has been arrived at between the petitioner and the respondent no.2 inasmuch as the respondent no.2/complainant is living with the petitioner no.1, her spouse, w.e.f. 24.09.2017 and that there are no problems now. As per averments made in the petition, the minor child aged 8 years born of the wedlock between the petitioner no.1 and the respondent no. 2 is living with the petitioner no.1 and the respondent no.2.

The Investigating Officer of the case present today in Court has identified the petitioner no. 1 Shri Uma Shankar, s/o Shri Mahender Pratap Saini, petitioner no.2 Shri Mahender Pratap Saini, s/o Shri Jain Kishan, petitioner no.3 Smt. Kusum Lata, w/o Shri Mahender Pratap Saini, petitioner

no. 4 Shri Yogender Saini, s/o Shri Mahender Pratap Saini and petitioner no. 5 Ms. Meenakshi Saini, w/o Shri Yogender Saini as being the only accused arrayed in FIR No.267/14, registered at PS Keshav Puram, under Sections 498A/406/34 Indian Penal Code, 1860 and has also identified the respondent no. 2 Smt. Renu Saini, d/o Shri Jagdish Saini as being the complainant of the FIR in question.

Learned APP for the State submits that in view of the averments made in the petition, there is no opposition on behalf of the State to the prayer made by the petitioner seeking quashing of the FIR in question.

The respondent no.2, the complainant of the said FIR in her examination on oath by the Court has testified having sworn her affidavit annexed to the petition as Ex.CW2/A voluntarily of her own accord without any duress or coercion from any quarter in support of averments made thereof. She has further testified to the effect that she does not oppose the prayer made by the petitioner seeking quashing of the FIR in question inasmuch as she is living with the petitioner no.1, her spouse, w.e.f. 24.09.2017 with the minor child aged 8 years without any problems now. She has further testified to the effect that she does not want any of the petitioners to be punished in relation to the offences punishable under Sections 498A/406/34 of Indian Penal Code, 1860

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

In view thereof as it apparently appears that the present FIR in question emanates from the matrimonial discord between the petitioner no.1

and the respondent no.2 which matrimonial discord has since been resolved inasmuch as the respondent no.2/complainant is living with the petitioner no.1, her spouse, w.e.f. 24.09.2017 without any problems now as testified by the respondent no.2 present today in Court, 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 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

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 considered appropriate for maintenance of peace and harmony between the petitioners and the respondent no.2 to allow the prayer made by the petitioners seeking quashing of the FIR No.267/14, registered at PS Keshav Puram, under Sections 498A/406/34 Indian Penal Code, 1860.

In view thereof, the FIR No.267/14, registered at PS Keshav Puram, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner no. 1 Shri Uma Shankar, s/o Shri Mahender Pratap Saini, petitioner no.2 Shri Mahender Pratap Saini, s/o Shri Jain Kishan, petitioner no.3 Smt. Kusum Lata, w/o Shri Mahender Pratap Saini, petitioner no. 4 Shri Yogender Saini, s/o Shri Mahender Pratap Saini and petitioner no. 5 Ms. Meenakshi Saini, w/o Shri Yogender Saini are quashed.

The petition is disposed of.

ANU MALHOTRA, J

JANUARY 24, 2018

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88

CRL.M.C. 383/2018

UMA SHANKAR

Vs. THE STATE GOVT OF NCT OF DELHI & ANR

Statement of CW1 : W/SI Veena, PS Keshav Puram, Delhi.

ON S.A.

I identify the petitioner no. 1 Shri Uma Shankar, s/o Shri Mahender Pratap Saini, petitioner no.2 Shri Mahender Pratap Saini, s/o Shri Jain Kishan, petitioner no.3 Smt. Kusum Lata, w/o Shri Mahender Pratap Saini, petitioner no. 4 Shri Yogender Saini, s/o Shri Mahender Pratap Saini and petitioner no. 5 Ms. Meenakshi Saini, w/o Shri Yogender Saini as being the only accused arrayed in FIR No.267/14, registered at PS Keshav Puram, under Sections 498A/406/34 Indian Penal Code, 1860 and I also identify the respondent no. 2 Smt. Renu Saini, d/o Shri Jagdish Saini as being the complainant of the FIR in question present today in Court. The proofs of identity of the petitioner nos. 1 to 5 and of the respondent no.2 in the form of photocopies of their Aadhar Cards are on the record as Ex. CW 1/A & Ex. CW 1/F respectively. (Originals seen and returned)

ANU MALHOTRA, J

RO & AC

JANUARY 24, 2018

88

CRL.M.C. 383/2018

UMA SHANKAR

Vs. THE STATE GOVT OF NCT OF DELHI & ANR

Statement of CW2 : Smt. Renu Saini, w/o Shri Uma Shankar Saini, d/o Shri Jagdish Saini, aged 32 years r/o 1523/108, Trinagar, New Delhi with the address of in-laws H.No. 190/2, Street No.2, Padam Nagar, Kishan Ganj, Delhi-110007.

ON S.A.

My affidavit annexed to the petition bears my signature thereon at points-A and B on Ex.CW2/A which I have signed voluntarily of my own accord without any duress or coercion from any quarter. I am living with the petitioner no.1, my spouse, w.e.f. 24.09.2017 along with my son aged 8 years without any problems now. I am a graduate.

I do not not oppose the prayer made by the petitioner no. 1 Shri Uma Shankar, petitioner no.2 Shri Mahender Pratap Saini, petitioner no.3 Smt. Kusum Lata, petitioner no. 4 Shri Yogender Saini and petitioner no. 5 Ms. Meenakshi Saini seeking quashing of FIR No.267/14, PS Keshav Puram, under Sections 498A/406/34 Indian Penal Code, 1860 nor do I want any of the petitioners to be punished in relation to the offences punishable under Sections 498A/406/34 of Indian Penal Code, 1860.

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

ANU MALHOTRA, J

RO & AC

JANUARY 24, 2018