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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 253/2018**

VIKAS KAPOOR & ORS Petitioner
Through: Mr.Niraj Chaudhary, Advocate

versus

THE STATE GOVT OF NCT OF DELHI & ANR Respondents
Through: Mr. Kamal Kr. Ghei, APP for State
with W/ASI Jyoti, PS Rajouri Garden
Mr.Vivek Sharma, Adv for R-2.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **18.01.2018**

Crl.M.A. No. 986/2018 (Exemption)

This is an application filed on behalf of the petitioner for exemption from filing certified copies of the annexures.

Exemption allowed, subject to just exceptions.

Crl.M.C. No.253/2018

Vide the present petition, the petitioners seek quashing of FIR No.1712/2015, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Rajouri Garden submitting *inter alia* to the effect that a settlement has been arrived at between the petitioners and the respondent No.2 whereby the marriage between the petitioner No.1 and the respondent No.2 has been dissolved vide a decree of divorce through mutual consent vide decree dated 3.11.2017 under Section 13 B (2) of the Hindu Marriage Act, 1955 in HMA No.2666/2017 of the Family Courts, District West, Tis Hazari Court, which decree of

divorce is Ex.CW-2/C as per the certified copy of the judgment EX.CW-2/D annexed to the decree.

The Investigating Officer of the case is present in Court and has identified the petitioners No.1 and 2 as being the accused in the FIR in question and the respondent No.2 as being the complainant thereof. The proofs of identity of the petitioners No.1 and 3 are on the record in the form of Aadhar Cards being Ex.CW-1/A, and Ex.CW-1/B, and petitioner No.2 in the form of Identity Card issued by the Delhi University, photocopy of the same be placed on record and the proof of identity of the respondent no.2 in the form of Election Commission Identity Card being EX.CW-1/C respectively.

The respondent No.2 on her examination on oath by the Court testified to the effect that she has done Masters in Dental Surgery and has affirmed having signed her affidavit (EX.CW-2/A) annexed to the petition and also testified to the effect that pursuant to the settlement arrived at between her and the petitioners she has already received a sum of Rs.4,00,000/- out of the total settlement amount of Rs.5,00,000/- towards all her claims and balance sum of Rs.1,00,000/- has been handed over to her today in the Court vide a Demand Draft bearing no.506353 dated 1.12.2017, drawn on ICICI Bank, Naraina in her favour. The photocopy of which is EX.CW-2/B. Now there are no claims of her left against the petitioners.

She has also testified to the effect that she does not oppose the prayer made by the petitioners vide the present petition CrI.M.C. No. 253/2018 seeking quashing of FIR No.1712/2015, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Rajouri

Garden, in view of the settlement arrived at between her and the petitioners.

Learned APP for the State also, in the facts and circumstances, does not oppose the prayer made by the petitioners seeking quashing of FIR No.1712/2015, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Rajouri Garden.

Taking into account the factum that the marriage between the petitioner No.1 and the respondent No.2 has been dissolved vide a decree of divorce through mutual consent vide decree dated 3.11.2017 under Section 13 B (2) of the Hindu Marriage Act, 1955 in HMA No.2666/2017 of the Family Courts, District West, Tis Hazari Court, copy of which is on the record as EX.CW-2/C, there appears no reason to disbelieve the statement made by the respondent No.2 that she has arrived at the settlement with the petitioners voluntarily of her own accord without any duress, coercion or pressure from any quarter and that she does not seek the continuance of the FIR against the petitioners as apparently the FIR is indicated to have been registered due to a matrimonial discord which has since been dissolved vide a decree of divorce through mutual consent dated 1.9.2017 under Section 13 B (2) of the Hindu Marriage Act, 1955 in HMA No.2666/2017 of the Family Courts, District West, Tis Hazari Court, 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 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 in the interest of justice to put a quietus to the litigation between the parties so that peace and harmony between them is restored.

In view thereof the prayer made by the petitioners seeking quashing of the FIR No.1712/2015, under Sections 498A/406/34

Indian Penal Code, 1860, Police Station Rajouri Garden and all consequential proceedings emanating therefrom against the petitioners No.1, 2 and 3, *namely*, Vikas Kapoor, Avinashi Kapoor and Shashi Kapoor is thus allowed and the FIR No.1712/2015, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Rajouri Garden and all consequential proceedings emanating therefrom are thus quashed against the petitioners.

The petition is disposed of.

ANU MALHOTRA, J

JANUARY 18, 2018/sv

IN THE HIGH COURT OF DELHI: NEW DELHI

Item No. 39

CrI. M.C. 253/2018

VIKAS KAPOOR & ORS. Vs. STATE & ANR.

18.01.2018

**CW-1 W/SI JYOTI POLICE STATION RAJOURI GARDEN
ON S.A.**

I identify the petitioners No.1, 2 and 3, *namely*, Vikas Kapoor, Avinashi Kapoor and Shashi Kapoor as the accused and the respondent No.2 Dr.Jasjit Kaur, the complainant of the FIR No.1712/2015, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Rajouri Garden present in the Court today. The proofs of identity of the petitioners No.1, 2 and 3 in the form of the photocopy of Aadhar Card bearing No. No.744944530231 (petitioner No.1) and 501407869558 (petitioner No.3), and identity Card issued by the Delhi University bearing No.A-474 (Petitioner No.2) Photocopy thereof be filed on the record, and the proof of identity of the respondent No.2 in the form of the photocopy of her Aadhar Card bearing No.820424325091 have been produced, the same qua the petitioners No.1 and 3 being Ex.CW-1/A, and Ex.CW-1/B and of the respondent No.2 being Ex.CW-1/C respectively (Originals seen & returned.).

Apart from the petitioners No.1 to 3, no other person/persons is/are arrayed as the accused in relation to the present FIR No.1712/2015, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Rajouri Garden.

RO & AC

18.01.2018

ANU MALHOTRA, J

IN THE HIGH COURT OF DELHI: NEW DELHI

Item No. 39

CrI. M.C. 253/2018

VIKAS KAPOOR & ORS. Vs. STATE & ANR.

18.01.2018

**CW-2 STATEMENT OF DR.JASJIT KAUR D/O COL. IQBAL
SINGH R/O H. NO. J-6/102, RAJOURI GARDEN, NEW DELHI,
AGED 32 YEARS**

On S.A.

I have Masters in Dental Surgery.

My affidavit annexed to the petition bears my signatures there on each page thereof at point A on EX.CW-2/A which I have signed voluntarily of my own accord without any duress, coercion or pressure from any quarter.

A settlement has been arrived at between me and the petitioners I have already received a sum of Rs.4,00,000/- out of the total settlement amount of Rs.5,00,000/- towards all my claims and balance sum of Rs.1,00,000/- has been handed over to me today in the Court vide a Demand Draft bearing no.506353 dated 1.12.2017, drawn on ICICI Bank, Naraina in my favour. The photocopy of which is EX.CW-2/B. Now there are not claims of mine left against the petitioners.

The marriage between me and the petitioner No.1 has already been dissolved vide a decree of divorce through mutual consent vide decree dated 3.11.2017 under Section 13 B (2) of the Hindu Marriage Act, 1955 in HMA No.2666/2017 of the Family Courts, District West, Tis Hazari Court, which decree of divorce is Ex.CW-2/C as per the certified copy of the judgment EX.CW-2/D annexed to the decree. There is no child of the wedlock.

In view of the settlement arrived at between me and the petitioners, I do not seek any further action against the petitioners No.1 to 3 *namely*, Vikas Kapoor (Husband), Avinashi Kapoor (Father-in-law) and Shashi Kapoor (Mother-in-law) in relation to FIR No.1712/2015, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Rajouri Garden and all consequential proceedings emanating therefrom. I thus do not oppose the prayer made vide the present petition CrI.M.C. No. 253/2018 seeking quashing of FIR No. FIR No.1712/2015, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Rajouri Garden.

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

RO & AC
18.01.2018

ANU MALHOTRA, J