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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 359/2018**
RAJNISH SURI Petitioner

Through: Mr. Aditya Bhardwaj, Adv.

versus

STATE (NCT OF DELHI) & ANR Respondent
Through: Mr. Sanjeev Sabharwal, APP for
State with SI Sandeep Kumar, PS
Sarita Vihar.
R-2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **07.02.2018**

Crl. M.A. 2426/2018

The matter is indicated to be listed for 16.04.2018 and is taken up on Crl. M.A. 2426/2018, an application filed on behalf of the petitioner seeking an early hearing submitting to the effect that the petitioner has to leave for the United States of America on 08.02.2018 as per the ticket annexed to the petition and that all the disputes between the parties have been settled. In view of the presence of the petitioner no.1 and the respondent no.2 the matter has been taken up for hearing in the interest of justice.

The application is disposed of.

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Vide the present petition, the petitioner seeks quashing of FIR No. 115/11, PS Sarita Vihar under Section 498A Indian Penal Code, 1860 and all consequential proceedings emanating therefrom, it having been submitted to the effect that no charges under Section 406 Indian Penal Code, 1860 have been framed against the petitioner in view of the discharge

of the petitioner for the said offence vide order dated 19.05.2015 of the Court of the MM-01 (Mahila Court), South-East. It has been submitted on behalf of the petitioner that vide proceedings dated 19.05.2015 of the Court of MM-01 (Mahila Court), South-East, Saket co-accused in the instant case Ms. Pratibha Suri was discharged for the alleged commission of offence punishable under Section 498A/406 Indian Penal Code, 1860. It has been submitted on behalf of the petitioner that the matter has been amicably settled between the petitioner and the respondent no.2 in view of the settlement agreement dated 09.02.2017 arrived at between the respondent no.2 and the petitioner at the Delhi High Court Mediation and Conciliation Centre and also vide a Memorandum of Understanding attested on 15.04.2017 in continuation of the said settlement deed dated 09.02.2017 all claims between the petitioner and the respondent no.2 have since been settled. The respondent no. 2 has produced her identity proof in the form of photocopy of her Aadhar Card which is on the record as Ex. CW1/A and submitted that she has misplaced her original Aadhar Card today in Court and has produced her gate-pass issued for entry to this Court i.e. Court No. 32 today which is on the record as Ex. CW1/B

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/A and has further testified to the effect that she has also signed the settlement agreement dated 09.02.2017 arrived at between her and the petitioner at the Delhi High Court Mediation and Conciliation Centre Ex. CW2/E and the Memorandum of Understanding attested on 15.04.2017 in continuation of the said settlement deed dated 09.02.2017 executed between the petitioner and her, copy of which is Ex. CW2/F voluntarily of her own accord without

any duress or coercion from any quarter. The respondent no.2 has further

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testified to the effect that all terms of the settlement agreement dated 09.02.2017 and of the Memorandum of Understanding attested on 15.04.2017 i.e. Ex CW1/E and Ex. CW1/F respectively have been complied with by her and by the petitioner w.e.f. 20.04.2015 and that there are no claims of hers left against the petitioner. She has further testified to the effect that there are two daughters born of the wedlock between her and the petitioner and both are adult. She has further testified to the effect that the marriage between her and the petitioner no.1 has been dissolved vide decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 13.12.2017 of the Court of the Judge, Family Court, South-East, Saket, New Delhi in HMA No. 401/2017, certified copy of which is on the record as Ex. CW2/C.

She has further testified to the effect that she does not oppose the prayer made by the petitioner seeking quashing of the FIR No. 115/11, PS Sarita Vihar under Section 498A/406 Indian Penal Code, 1860 in relation to which it has been submitted on behalf of the petitioner that the charge-sheet was framed qua the offence punishable under Section 498A Indian Penal Code, 1860. She has stated that she does not want the petitioner to be punished in relation to the offences punishable under Section 498A Indian Penal Code, 1860.

The respondent no.2 has further testified to the effect that she is a graduate having done B.Sc. (Home Science).

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

the petitioner and the respondent no.2.

In view of the deposition of the respondent no.2 and her submitting to the effect that all claims between her and the petitioner have been settled in view of the settlement agreement dated 09.02.2017 Ex. CW2/E and the Memorandum of Understanding attested on 15.04.2017 in continuation of the said settlement deed dated 09.02.2017 Ex. CW2/F and that she has sworn her affidavit Ex. CW2/D voluntarily of her own accord without any duress, coercion or pressure from any quarter, taking into account level of education also of the respondent no.2, there being no reason to disbelieve her statement that she has arrived at a settlement with petitioner voluntarily of her own accord and that she voluntarily does not oppose the prayer made by the petitioner seeking quashing of FIR in question and in view of the dissolution of marriage between the petitioner and the respondent no.2, it is considered appropriate to put a quietus to the litigation between the petitioner and the respondent no.2, 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,

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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

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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. 115/11, PS Sarita Vihar under Section 498A/406 Indian Penal Code, 1860 and in relation to which the petitioner has been charged under Section 498A Indian Penal Code, 1860 is thus quashed and all the consequential proceedings emanating therefrom against the petitioner are also quashed.

ANU MALHOTRA, J

FEBRUARY 07, 2018

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Statement of CW1 : SI Sandeep Kumar, PS Sarita Vihar, Delhi.

ON S.A.

I identify the petitioner Shri Rajnish Suri, s/o late Shri B.R. Suri as being the only three accused arrayed FIR No. 115/11, PS Sarita Vihar under Section 498A/406 Indian Penal Code, 1860 and I also identify the respondent no.2 Ms. Nidhi, d/o Shri M. L. Ghai present today in Court as being the complainant thereof. The proof of identity of the petitioner in the form of photocopy of his Aadhar Card is on the record as Ex. CW1/G (Original seen and returned) and proof of identity of the respondent no. 2 in the form of photocopy of Aadhar Cards and photocopy of her gate-pass issued for entry to this Court today are on the record Ex. CW1/A and Ex. CW1/B respectively

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Statement of CW2 : Smt. Nidhi Suri, d/o Shri M.L. Ghai, aged 49 years, r/o J-31, Sarita Vihar, New Delhi.

ON S.A.

I misplaced my original Aadhar Card today in Court. Photocopy of my Aadhar Card is on the record as Ex. CW1/A and my gate-pass issued for entry to this Court today is Ex. CW1/B. FIR 115/11, PS Sarita Vihar was registered on my complain against mr. Rajnish Suri who is present as petitioner today in Court.

The marriage between me and the petitioner no.1 has been dissolved vide decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 13.12.2017 of the Court of the Judge, Family Court, South-East, Saket, New Delhi in HMA No. 401/2017, certified copy of which is on the record as Ex. CW2/C.

My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/D. A settlement agreement dated 09.02.2017 arrived at between me and the petitioner at the Delhi High Court Mediation and Conciliation Centre bears my signature thereon on each page at point-A thereof on Ex. CW2/E. A Memorandum of Understanding attested on 15.04.2017 in continuation of the said settlement deed dated 09.02.2017 bear my signature thereon on each page at point-A thereof on Ex. CW2/F. I have signed all these documents i.e. Ex. CW1/C, D & E voluntarily of my own accord without any duress, pressure or coercion from any quarter.

All claims between me and the petitioner have been settled. There are no claims of mine left against the petitioner now. All terms of this settlement

agreement dated 09.02.2017 and of the Memorandum of Understanding attested on 15.04.2017 i.e. Ex CW1/E and Ex. CW1/F respectively have been complied with by me and by the petitioner. I do not oppose the prayer made by the petitioner seeking quashing of FIR No. 115/11, PS Sarita Vihar under Section 498A Indian Penal Code, 1860 inasmuch as the petitioner was discharged for the offence punishable under Section 406 Indian Penal Code, 1860 vide order dated 19.05.2015 of the MM-01 (Mahila Court), South-East. I do not want the petitioner to be punished in relation to the offence punishable under Section 498A/406 Indian Penal Code, 1860.

I have done B.Sc. (Home Science). Presently I am not working

There are two daughters born of the wedlock between me and the petitioner and both are adult.

The photocopy of the Aadhar Card of the petitioner is on the record as Ex. CW1/G.

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

ANU MALHOTRA, J

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