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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 620/2018 & CRL.M.A. 2257/2018**

AMIT

..... Petitioner

Through: Mr. D.V. Singh, Adv.

versus

THE STATE GOVT OF NCT OF DELHI & ANR Respondent

Through: Mr. Sanjeev Sabharwal, APP for
State with Insp. Narinder Kaur, PS
FRRO.

Mr. Nihal Singh Gurjar, Adv. for R-2
with R-2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **06.02.2018**

CRL.M.A. 2257/2018 (Exemption)

Exemption allowed, subject to just exceptions.

CRL.M.C. 620/2018

Vide the present petition, the petitioner seeks quashing of FIR No.130/2013, registered at PS Lajpat Nagar, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom submitting to the effect that the dispute between the petitioner and the respondent no.2 has since been resolved and the marriage between the petitioner and the respondent no.2 has since been dissolved vide the decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955.

The Investigating Officer of the case present today in Court has identified the the petitioner Shri Amit s/o Shri Kanchi Lal as being the sole

accused arrayed in FIR No.130/2013, registered at PS Lajpat Nagar, under Sections 498A/406/34 Indian Penal Code, 1860 and testified to the effect that the other persons named in the said FIR i.e. Shri Kanchi Lal, father-in-law, Smt. Anguri Devi, mother-in-law, Shri Rajesh, brother-in-law and Ms. Suman, sister-in-law have not been charge-sheeted for want of evidence against them for the offences punishable under Sections 498A/406/34 Indian Penal Code, 1860 and he also identified the respondent no.2 Ms. Laxmi present today in Court as being the complainant thereof. The proofs of identity of the petitioner and of the respondent no. 2 in the form of photocopies of their Aadhar Cards are on the record as Ex. CW1/A and Ex. CW1/B respectively, 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/A and has further testified to the effect that she has also signed the settlement arrived at between her and the petitioner at the Counselling Cell, Family Court, South East, Saket Courts, New Delhi, certified copy of which is on the record as Ex. CW2/B voluntarily of her own accord without any duress or coercion from any quarter. The respondent no.2 has further testified to the effect that pursuant to the said settlement, a total sum of Rs. 2.30 lacs was to be paid by the petitioners to her, of which a sum of Rs. 1.50 lacs has been received by her previously and the balance sum of Rs. 80,000/- has been handed over to her by the petitioner today in Court in the form of a demand draft bearing no. 885318 revalidated on 16.11.2017 in her favour drawn on the Punjab and Sindh Bank, copy of original demand draft dated 09.05.2017 is on the record as Ex. CW2/D. The respondent no.2 has further testified to the effect that there are no claims of hers left against the petitioner and has

further testified to the effect that in terms of the said settlement arrived at between her and the petitioners, the minor child born of the wedlock between her and the petitioner is in her custody and shall remain in her custody.

She has *inter alia* 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 10.11.2017 of the Court of the Principal Judge, Family Court, South-East, Saket Courts, New Delhi in HMA No. 1038/17 (copy of which is on the record as Ex. CW2/C).

In reply to a specific Court query, she has further stated that she does not oppose the prayer made by the petitioner seeking quashing of the FIR No.130/2013, registered at PS Lajpat Nagar, under Sections 498A/406/34 Indian Penal Code, 1860 in view of the settlement arrived at between the petitioner and herself and she does not want the petitioner to be punished in relation thereto and she has further stated that she does not seek any proceedings further against Shri Kanchi Lal, father-in-law, Smt. Anguri Devi, mother-in-law, Shri Rajesh, brother-in-law and Ms. Suman, sister-in-law.

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 deposition of the respondent no.2, there being 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 and in view of the settlement arrived at between the petitioner

and the respondent no.2 and the factum that the marriage between the petitioner and the respondent no.2 has since been dissolved vide decree dated 10.11.2017 of the Court of the Principal Judge, Family Court, South-East, Saket Courts, New Delhi in HMA No. 1038/17 indicating thereby that the matrimonial discord between the respondent no.2 and the petitioner which caused the registration of the FIR in question has since been resolved and settled and all claims between the petitioner and the respondent no.2 have since been settled and as 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 submitting to the effect that she does not oppose the prayer made by the petitioner seeking quashing of FIR No.130/2013, registered at PS Lajpat Nagar, under Sections 498A/406/34 Indian Penal Code, 1860, 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)

it is considered appropriate to put a quietus to the litigation for maintenance of peace and harmony between the petitioners and the respondent no.2, it is considered appropriate to allow the prayer made by the petitioners seeking quashing of FIR No.130/2013, registered at PS Lajpat Nagar, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners.

In view thereof the FIR No.130/2013, registered at PS Lajpat Nagar, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner Mr. Amit are quashed.

ANU MALHOTRA, J

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CRL.M.C. 620/2018

AMIT

Vs. THE STATE GOVT OF NCT OF DELHI & ANR

Statement of CW1 : Inspector Narinder Kaur, PS FRRO, Delhi.

ON S.A.

I identify the petitioner Shri Amit s/o Shri Kanchi Lal as being the sole accused arrayed in FIR No.130/2013, registered at PS Lajpat Nagar, under Sections 498A/406/34 Indian Penal Code, 1860. The other persons named in the said FIR i.e. Shri Kanchi Lal, Smt. Anguri Devi, Shri Rajesh and Ms. Suman have not been charge-sheeted for want of evidence against them for the offences punishable under Sections 498A/406/34 Indian Penal Code, 1860. I also identify the respondent no.2 Ms. Laxmi present today in Court as being the complainant thereof. The proofs of identity of the petitioner and of the respondent no. 2 in the form of photocopies of their Aadhar Cards are on the record as Ex. CW1/A and Ex. CW1/B respectively. (Originals seen and returned.)

ANU MALHOTRA, J

RO & AC

FEBRUARY 06, 2018

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CRL.M.C. 620/2018

AMIT

Vs. THE STATE GOVT OF NCT OF DELHI & ANR

Statement of CW2 : Smt. Laxmi, d/o Shri Vinod Kumar, aged 28 years, r/o H.No. S-60/55A, Vijay Camp, Jal Vihar, New Delhi.

ON S.A.

My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/A. A settlement has been arrived at between me and the petitioner at the Counselling Cell, Family Court, South East, Saket Courts, New Delhi, certified copy of which bears my signature thereon on each page at point-A thereof on Ex. CW2/B. I have signed both these documents voluntarily of my own accord without any duress, pressure or coercion from any quarter.

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 10.11.2017 of the Court of the Principal Judge, Family Court, South-East, Saket Courts, New Delhi in HMA No. 1038/17, copy of which is on the record as Ex. CW2/C and pursuant to the same, a total sum of Rs. 2.30 lacs was to be paid by the petitioners to me, of which a sum of Rs. 1.50 lacs has been received by me previously and the balance sum of Rs. 80,000/- has been handed over to me by the petitioner today in Court in the form of a demand draft bearing no. 885318 revalidated on 16.11.2017 in my favour drawn on the Punjab and Sindh Bank, copy of original demand draft dated 09.05.2017 is on the record as Ex. CW2/D. (The respondent no.2 is directed to file a copy of the

revalidated demand draft on the record). There are no claims of mine left against the petitioners now. In terms of the said settlement arrived at between me and the petitioner, the minor child born of the wedlock between me and the petitioner is in my custody and shall remain in my custody. In view of the said settlement arrived at between me and the petitioner, I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.130/2013, registered at PS Lajpat Nagar, under Sections 498A/406/34 Indian Penal Code, 1860 nor do I want the petitioner to be punished in relation thereto and I do not seek any proceedings further against Shri Kanchi Lal, my father-in-law, Smt. Anguri Devi, my mother-in-law, Shri Rajesh, my brother-in-law and Ms. Suman, my sister-in-law.

I have studied upto standard 7th and do a cleaning job in the Axis Bank since the last two years. I have nothing else to say.

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

ANU MALHOTRA, J

**RO & AC
FEBRUARY 06, 2018**

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CRL.M.C. 622/2018

UMESH KUMAR BAREJA & ORS

Vs. NCT OF DELHI & ANR

Statement of CW1 : SI Azad Singh, PS Ranhola, Delhi.

ON S.A.

I identify the petitioner no.1 Shri Umesh Kumar Bareja, s/o Shri Charanjeet Lal Bareja and the petitioner no.3 Smt. Sudesh Kumari, w/o Shri Charanjeet Bareja and the photograph of the petitioner no.2 Shri Charanjeet Bareja as being the three accused arrayed in FIR No.231/2016, registered at PS Ranhola, under Sections 498A/406/34 Indian Penal Code, 1860. I also identify the respondent no.2 Ms. Gunjan present today in Court as being the complainant thereof. The proofs of identity of the petitioner nos. 1 & 3 and of the respondent no. 2 in the form of photocopies of their Aadhar Cards are on the record as Ex. CW1/A to Ex. CW1/C respectively. I identify the photograph of the petitioner no.2 Shri Charanjeet Bareja as Ex. CW1/D. (Originals seen and returned.)

Apart from the petitioner nos. 1, 2 & 3 there are no other persons arrayed as accused in the said FIR.

ANU MALHOTRA, J

RO & AC

FEBRUARY 06, 2018

Statement of CW2 : Smt. Gunjan Bareja, d/o Shri Ashok Tyagi, aged 32 years, r/o Plot No. 131, Radha Kunj Society, Om Vihar, Phase-I, New Delhi.

ON S.A.

My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/A. Certified copy of settlement dated 07.10.2016 arrived at between me and the petitioner at the Delhi Mediation Centre, THC, New Delhi bears my signature thereon on each page at point-A thereof on Ex. CW2/B. I have signed both these documents voluntarily of my own accord without any duress, pressure or coercion from any quarter.

Pursuant to the said settlement, 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 09.10.2017 of the Court of the Principal Judge, Family Court, South-East, Saket, New Delhi in HMA No. 1082/17, copy of which is on the record as Ex. CW2/C and in terms of the said settlement, a total sum of Rs. 4.95 lacs and a scooty bearing no. 7879 was to be handed over to me by the petitioners, of which a sum of Rs. 3.75 lacs and a scooty bearing no. 7879 has been received by me previously and the balance sum of Rs. 1.20 lacs has been handed over to me by the petitioner today in Court in the form of a demand draft bearing no. 019489 dated 31.01.2018 in my favour drawn on the Axis Bank Ltd., copy of which is on the record as Ex. CW2/D. There are

no claims of mine left against the petitioners now. In terms of the said settlement arrived at between me and the petitioner, the minor child born of the wedlock between me and the petitioners is in my custody and shall remain in my custody. In view of the said settlement arrived at between me and the petitioners, I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.231/2016, registered at PS Ranhola, under Sections 498A/406/34 Indian Penal Code, 1860 nor do I want the petitioners to be punished in relation thereto.

I am an M.A. and work in networking.

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

ANU MALHOTRA, J

**RO & AC
FEBRUARY 06, 2018**