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

+ **CRL.M.C. 523/2018**

RAMESH CHAND & ORS

..... Petitioners

Through: Dr. (Maj) J.C.Vashista & Ms.
Yashika Sodhi, Advocate.

versus

THE STAE NCT OF DELHI & ANR

..... Respondents

Through: Mr. Panna Lal Sharma, APP for State
with SI Devender, PS Sagar Pur.
Mr. Siddharth, Adv for R-2.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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01.02.2018

CRL.M.A. 1913/2018

This is an application seeking exemption from filing certified copy of the FIR, which is allowed subject to just exceptions.

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Learned counsel for the respondent submits that he shall file the vakalatnama during the course of the day, the same be filed accordingly.

Vide the present petition, the petitioner seeks quashing of FIR No.101/2015, registered at PS Sagar Pur, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom submitting to the effect that the matrimonial discord between the

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petitioner No.1 and the respondent No.2 has been resolved in view of the dissolution of the marriage between the petitioner No.1 and the respondent

No.2 by a decree of divorce through mutual consent under Section 13(B)(2) of Hindu Marriage Act in HMA no. 3236/2017 dated 17.11.2017 of the Court of the Principal Judge, Family Courts, District Dwarka, New Delhi, the certified copy of which is on the record as Ex. CW2/C and all disputes between the petitioners and the respondent No.2 have been resolved in view of the settlement arrived at the Counselling Cell , Family Courts, Dwarka.

The Investigating Officer of the case present today in Court has identified the petitioner no.1 Mr. Ramesh Chand, petitioner No.2 Smt. Pratima Devi, petitioner No.3 Sh. Mahesh Chander and petitioner No.4 Sh. Uday Bhatt as being the four accused in relation to FIR No.101/2015, registered at PS Sagar Pur, under Sections 498A/406/34 Indian Penal Code, 1860 registered on the complaint of the respondent no.2 and Ms. Muskan. He has also identified the respondent no. 2, Ms. Muskan being the complainant of the case, who is also present today in the Court and has stated that apart from the petitioner nos. 1 to 4 there are no other persons arrayed as accused in the said FIR.

The proof of identity of the petitioner nos. 1 to 4 and respondent no. 2 in the form of photocopies of their Aadhar Cards are on the record as Ex. CW1/A to Ex. CW1/E respectively, originals of which have been seen and returned.

The respondent no.2, the complainant of the said FIR in her examination on oath by the Court has testified to having sworn her affidavit annexed to the petition as Ex.CW2/A. She has also testified to the effect and

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affirmed the settlement, which has been arrived at the Counselling Cell , Family Courts, Dwarka which bears her signatures on each page thereon at point A on Ex. CW2/B and she has signed both these documents voluntarily of her own accord without any duress, coercion or pressure from any

quarter.

She has stated that she does not oppose the prayer made by the petitioners seeking quashing of the FIR No.101/2015, registered at PS Sagar Pur, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom and in as much as pursuant to the said settlement, the marriage between her and the petitioner no. 1 has been dissolved by a decree of divorce through mutual consent under Section 13(B)(2) of Hindu Marriage Act in HMA no. 3236/2017 dated 17.11.2017 of the Court of the Principal Judge, Family Courts, District Dwarka, New Delhi and that a total sum of Rs. 3,25,000/- was payable to her by the petitioners and out of which she has already received a sum of Rs. 2,00,000/- previously during the proceedings under Section 13(B)(1) and Section 13 (B)(2) of the Hindu Marriage Act and the balance sum of Rs. 1,25,000/- has been handed over to her today by the petitioners in the form of a Bankers' Cheque bearing no. 675559 dated 30.01.2018 in her favour drawn on SBI Bank, copy of which is taken on the record as Ex. CW2/D. She has further stated that there are now no claims of hers left against the petitioners. She also does not oppose the prayer made by the petitioners seeking quashing of the FIR No.101/2015, registered at PS Sagar Pur, under Sections 498A/406/34 Indian Penal Code, 1860 registered on her complaint and she states that she does not want the petitioner nos. 1 to 4 to be punished

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in relation to the said FIR in relation thereto.

On behalf of the State, in view of the deposition made by the respondent no. 2 and in the circumstances of the case, there is no opposition to the prayer made by the petitioners.

Taking into account, the deposition of the respondent no. 2 and as the matrimonial discord between the petitioner no. 1 and the respondent no. 2

has been resolved by a decree of divorce through mutual consent under Section 13(B)(2) of Hindu Marriage Act in HMA no. 3236/2017 dated 17.11.2017 of the Court of the Principal Judge, Family Courts, District Dwarka, New Delhi, copy of which is on the record as Ex. CW2/C and all the disputes between the petitioners and the respondent no. 2 have been settled and that there are now no claims of hers left against the petitioners and as she has stated that she has studied upto Standard V and has made this statement voluntarily of her own accord without any duress or coercion from any quarter and there being 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, thus for the well being of the respondent no. 2 and for the maintenance of peace and harmony between the petitioners 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, 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

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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 allow the prayer made by the petitioners seeking quashing of FIR No.101/2015, registered at PS Sagar Pur, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioners.

In view thereof the FIR No.101/2015, registered at PS Sagar Pur, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential

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proceedings emanating therefrom against the petitioner no.1 Mr. Ramesh Chand, petitioner No.2 Smt. Pratima Devi, petitioner No.3 Sh. Mahesh Chander and petitioner No.4 Sh. Uday Bhatt are thus quashed.

The petition is disposed of.

ANU MALHOTRA, J

FEBRUARY 01, 2018

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RAMESH CHAND & ORS.

Vs. STATE & ANR

Statement of CW1 : SI Devender Kumar, PS Sagar Pur, Delhi.

ON S.A.

I identify the petitioner no.1 Mr. Ramesh Chand, petitioner No.2 Smt. Pratima Devi, petitioner No.3 Sh. Mahesh Chander and petitioner No.4 Sh. Uday Bhatt as being the four accused in relation to FIR No.101/2015, registered at PS Sagar Pur, under Sections 498A/406/34 Indian Penal Code, 1860 registered on the complaint of the respondent no.2 and Ms. Muskan. I also identify Ms. Muskan/ respondent no. 2 being the complainant of the case, who is also present today in the Court.

The proof of identity of the petitioner nos. 1 to 4 and respondent no. 2 in the form photocopies of their Aadhar Cards are on the record as Ex. CW1/A to Ex. CW1/E respectively. (Originals seen and returned).

Apart from the petitioner nos. 1 to 4 there are no other persons arrayed as accused in the said FIR.

ANU MALHOTRA, J

RO & AC

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Statement of CW2 : Ms. Muskan, d/o Sh. Roshan Lal, age 30 years, r/o House No. 13A, Block-A, Chanakya Place, 40 Foot Road, Uttam Nagar, New Delhi.

ON S.A.

I have studied up to standard 5th. I have come to this Court to take back my case i.e. my complaint registered as an FIR petitioner no.1 Mr. Ramesh Chand, petitioner No.2 Smt. Pratima Devi, petitioner No.3 Sh. Mahesh Chander and petitioner No.4 Sh. Uday Bhatt present today in Court at PS Sagar Pur, under Sections 498A/406/34 Indian Penal Code, 1860.

My affidavit annexed to the petition bears my signatures at points A and B on Ex. CW2/A and I have signed it voluntarily of my own accord without any duress or coercion from any quarter. A settlement has been arrived at the Counselling Cell , Family Courts, Dwarka which bears my signatures on each page thereon at point A on Ex. CW2/B and I have signed both these documents voluntarily of my own accord without any duress, coercion or pressure from any quarter.

Pursuant to the said settlement, the marriage between me and the petitioner no. 1 has been dissolved by a decree of divorce through mutual consent under Section 13(B)(2) of Hindu Marriage Act in HMA no. 3236/2017 dated 17.11.2017 of the Court of the Principal Judge, Family Courts, District Dwarka, New Delhi. The certified copy of which is on the record as Ex. CW2/C. Pursuant to the said settlement arrived at between me and the petitioners, a total sum of Rs. 3,25,000/- was payable to me by the petitioners and out of which I have already received a sum of Rs. 2,00,000/-

previously during the proceedings under Section 13(B)(1) and Section 13 (B)(2) of the Hindu Marriage Act and a balance sum of Rs. 1,25,000/- has been handed over to me today by the petitioners in the form of a bankers cheque bearing no. 675559 dated 30.01.2018 in my favour drawn on SBI Bank, copy of which is on the record as Ex. CW2/D. There are now no claims of mine left against the petitioners. I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.101/2015, registered at PS Sagar Pur, under Sections 498A/406/34 Indian Penal Code, 1860 registered on the complaint and I do not want the petitioner nos. 1 to 4 to be punished in relation to the said FIR in relation thereto.

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

ANU MALHOTRA, J

**RO & AC
FEBRUARY 01, 2018**