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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 584/2018
ROHIT GUPTA & ORS Petitioners

Through: Mr. Yogender Gautam, Advocate.

versus

THE STATE GOVT OF NCT OF DELHI & ANR..... Respondents

Through: Mr. Sanjeev Sabharwal, APP for State
with SI Karan Singh, PS Lodi
Colony.
Mr. Ravinder, Adv for R-2.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

% **ORDER**
05.02.2018

Vide the present petition, the petitioner seeks quashing of FIR No.54/2015, PS Lodi Colony under Sections 498A/406/34 of the Indian Penal Code, 1860, and all consequential proceedings emanating therefrom submitting to the effect that there is a settlement dated 28.10.2017 has been arrived at between the petitioners and the respondent no. 2 at the Mediation Centre, Saket Court, New Delhi and that pursuant to the settlement arrived at between the parties, the marriage between the petitioner no. 1 and the respondent no. 2 has since been dissolved vide a decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 as amended.

The Investigating Officer of the case present today in Court has

identified the petitioner no. 1, Mr. Rohit Gupta and petitioner no. 2, Smt. Veena Gupta as being the two accused in FIR No.54/2015, under Sections 498A/406/34 of the Indian Penal Code, 1860, Police Station Lodi Colony and he has also identified the respondent no. 2, Ms. Nidhi Aggarwal being the complainant of the said FIR present in the Court today. The proof of identity of the petitioner nos. 1 & 2 and the respondent no. 2 in the form of photocopies of their Aadhar Cards are on the record as Ex. CW1/A, Ex. CW1/B & Ex. CW1/C respectively.

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 and has further testified to having signed the mediation settlement dated 28.10.2017 arrived at the Mediation Centre, Saket Courts, New Delhi and that she has signed both these documents voluntarily of her own accord without any duress, coercion or pressure from any quarter, certified copy of which is on the record is Ex. CW2/B. She further testified that pursuant to the settlement arrived at between her and the petitioners, the marriage between her and the petitioner no. 1 has since been dissolved by a decree of divorce through mutual consent under Section 13 (B)(2) of Hindu Marriage Act, 1955 vide decree dated 18.12.2017 in HMA no. 56/17 by the court of the Judge, Family Court, South East, Saket, certified copy of which is on the record as Ex. CW2/C. She further stated that pursuant to the settlement arrived at between her and the petitioners, a total sum of Rs. 5,40,000/- was to be paid by the petitioners to her, out of which a sum of Rs. 4,40,000/- has been paid by the petitioners previously and a balance amount of Rs. 1,00,000/- has been handed over to her by the petitioners today by the bankers cheque bearing

no. 586311 dated 03.02.2018 drawn on SBI in her favour, i.e., in her account which is presently in the name of Nidhi Gupta, photocopy of which is on the record as Ex. CW2/D. She has submitted that there are now no claims of her left against the petitioners and as per the settlement arrived at between her and the petitioners, the minor child born out of the wed lock is in her custody and shall remain in her custody. She has stated that she has studied upto Standard 12th and she does not oppose the prayer made by the petitioners seeking quashing of the FIR No.54/2015, under Sections 498A/406/34 of the Indian Penal Code, 1860 nor does she want them to be punished in relation thereto. She has made her statement voluntarily of her own accord without any duress, pressure or coercion from any quarter and she does not oppose the prayer made by the petitioners seeking quashing of the said FIR.

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.

As the FIR had apparently been registered in view of a matrimonial discord between the petitioner no.1 and the respondent no. 2 which has since been dissolved vide a decree dated 18.12.2017 in HMA no. 56/17 by the Court of the Judge Family Court, South East, Saket and all the disputes between the petitioners and the respondent no. 2 have been settled, taking into account, the deposition of the respondent no. 2 and the factum that she has arrived at a settlement with the petitioners and she has stated she has made her statement voluntarily of her own accord without any duress or coercion from any quarter, there is 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 and thus for the well being of the respondent no. 2 and also 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 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.54/2015, PS Lodi Colony under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioners.

In view thereof the FIR No.54/2015, PS Lodi Colony under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioner no. 1, Mr. Rohit Gupta and petitioner no. 2, Smt. Veena Gupta are quashed.

The petition is disposed of.

ANU MALHOTRA, J

FEBRUARY 05, 2018

Neha Chopra

Item No. 82
CRL.M.C. 584/2018
ROHIT GUPTA & ANR. Vs. STATE & ANR.
05.02.2018

CW-1 SI KARAN SINGH, POLICE STATION LODI COLONY, NEW DELHI.

ON S.A.

I identify the petitioner no. 1, Mr. Rohit Gupta and petitioner no. 2, SMt. Veena Gupta as being the two accused in FIR No.54/2015, under Sections 498A/406/34 of the Indian Penal Code, 1860, Police Station Lodi Colony and I also identify the respondent no. 2, Ms. Nidhi Aggarwal being the complainant of the said FIR present in the Court today. The proof of identity of the petitioner nos. 1 & 2 and the respondent no. 2 in the form of photocopies of their Aadhar Cards are on the record as Ex. CW1/A, Ex. CW1/B & Ex. CW1/C respectively.

RO & AC
FEBRUARY 05, 2018.

ANU MALHOTRA, J

Item No. 82
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Statement of CW2 : Ms. Nidhi Aggarwal, d/o Shri Santosh Kumar Aggarwal, aged 34 years, r/o E-8, B.K. Dutt Colony, Karbala Lodhi Road, New Delhi.

ON S.A.

My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/A. The mediation settlement dated 28.10.2017, certified copy of which is on the record as Ex. CW2/B which bears my signatures at point A on each page thereof. I have signed both these documents voluntarily of my own accord without any duress, pressure or coercion from any quarter.

Pursuant to the settlement arrived at between me and the petitioners, the marriage between me and the petitioner no. 1 has since been dissolved by a decree of divorce through mutual consent under Section 13 (B)(2) of Hindu Marriage Act in HMA no. 56/17 by the court of the Judge Family Court, South East, Saket, certified copy of which is on the record as Ex. CW2/C. Pursuant to the settlement arrived at between me and the petitioners a total sum of Rs. 5,40,000/- was to be paid by the petitioners to me, out of which a sum of Rs. 4,40,000/- has been paid by the petitioners previously and a balance amount of Rs. 1,00,000/- has been handed over to me by the petitioners today by the bankers cheque bearing no. 586311 dated 03.02.2018 drawn on SBI in my favour, i.e., in my account which is presently in the name of Nidhi Gupta, photocopy of which is on the record

as Ex. CW2/D. There are now no claims of mine left against the petitioners. As per the settlement arrived at between me and the petitioners, the minor child born out of the wed lock is in my custody and shall remain in my custody. I have studied upto Standard 12th and I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.54/2015, under Sections 498A/406/34 of the Indian Penal Code, 1860 nor I do not want them to be punished in relation thereto.

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 05, 2018**