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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 496/2018 & CRL.M.A. 1840/2018**
YOURAJ GOOROONG & ORS Petitioner
Through Mr. Vinod Pant, Adv. with petitioners
in person.
versus

THE STATE GOVT OF NCT OF DELHI & ANR..... Respondent
Through Mr. Sanjeev Sabharwal, APP for State
with ASI Neeraj, PS Dabri.
Mr. Sandeep Singh, Ms. Sheetal
Guram, Adv. for R2 with R2 in
person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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31.01.2018

CRL.M.A. 1840/18

CRL.M.A. 1840/18 is an application filed on behalf of the petitioner seeking exemption from filing certified copies. The same is allowed, subject to just exceptions.

The application is disposed of.

CRL.M.C. 496/2018

Vide the present petition, the petitioner no. 1 Youraj Gooroong s/o Sh. Kumar Singh, the petitioner no. 2 Mohan Bahadur s/o Sh. Chitar Bahadur and the petitioner no. 3 Chanda w/o Mohan Bahadur seek quashing of the FIR No. 1097/2014, registered at PS Dabri, under Sections 498A/406/34 of the Indian Penal Code, 1860 submitting *inter alia* to the effect that a settlement has been arrived at between the petitioners and the respondent no.2 in as much as the marriage between the respondent no.2 and the

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petitioner no.1 has since been dissolved vide a decree of divorce dated 19.01.2018 of the Court of the Principal Judge, Family Court, South-West District, Dwarka, New Delhi in HMA No. 156/18 under Sections 13B(2) of the Hindu Marriage Act, 1955, photocopy of which is on record as Ex.CW2/C.

The Investigating Officer of the case has identified the petitioner no. 1 Youraj Gooroong s/o Sh. Kumar Singh, the petitioner no. 2 Mohan Bahadur s/o Sh. Chitar Bahadur and the petitioner no. 3 Chanda w/o Mohan Bahadur as being the accused in relation to the FIR No. 1097/2014, registered at PS Dabri, under Sections 498A/406/34 of the Indian Penal Code, 1860. He has submitted that there are no other persons arrayed as accused in the said FIR. He has also identified the respondent no. 2 Sheetal Gooroong d/o Sh. Inder Bahadur Rana, present today in the court i.e. the complainant of the FIR No. 1097/2014, registered at PS Dabri, under Sections 498A/406/34 of the Indian Penal Code, 1860. Photocopies of the proof of identity in the form of Aadhar cards of the petitioners no. 1 to 3 and the respondent no. 2 are Ex. CW1/A to Ex. CW1/D respectively, originals of which have been seen and returned.

The respondent no. 2 on her examination by the Court on oath has testified to having sworn her affidavit as Ex.CW2/A annexed to the petition and has also testified to having signed the Settlement Deed executed between the parties, copy of which is on record as Ex.CW2/B, which she stated she has signed voluntarily of her own accord without any duress or coercion from any quarter and without anyone's influence. The respondent no. 2 has testified to the effect that there is no child of the wedlock between

herself and the petitioner no. 1 and that the marriage between herself and the petitioner no.1 has since been dissolved vide a decree of divorce dated 19.01.2018 of the Court of the Principal Judge, Family Court, South-West District, Dwarka, New Delhi in HMA No. 156/18 under Sections 13B(2) of the Hindu Marriage Act, 1955, (photocopy of which decree of divorce is on record as Ex.CW2/C). She has further testified to the effect that pursuant to the said Settlement Deed dated 02.06.2017 she has received a sum of Rs.10 lacs and the balance sum of Rs.5 lacs has been received by her today in the Court in the form of D.D. No. 989585 dated 24.01.2018 drawn on the State Bank of India in her name as Sheetal Rana, photocopy of which is on the record as Ex.CW2/D. She has further testified to the effect that now there are no claims of hers left against the petitioners. The respondent no. 2 has testified that she had studied till 10th standard and she intends studying further and that she thus does not oppose the prayer made by the petitioners seeking quashing of the FIR No. 1097/2014, registered at PS Dabri, under Sections 498A/406/34 of the Indian Penal Code, 1860 nor does she want the petitioners to be punished in relation thereto.

Learned APP for the State also in the circumstances of the case does not oppose the prayer made by the petitioners seeking quashing of the FIR No. 1097/2014, registered at PS Dabri, under Sections 498A/406/34 of the Indian Penal Code, 1860 in view of the settlement arrived at between the parties.

Taking into account the totality of the circumstances of the case and the statement made by the respondent no. 2, there appears no reason to disbelieve the statement made by the respondent no. 2 that she has arrived at

the settlement voluntarily of her own accord without any duress or coercion from any quarter and as the matrimonial discord between the petitioners 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 vide a decree of divorce dated 19.01.2018 of the Court of the Principal Judge, Family Court, South-West District, Dwarka, New Delhi in HMA No. 156/18 under Sections 13B(2) of the Hindu Marriage Act, 1955, thus to maintain peace and harmony between the parties, 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.]”

(emphasis supplied)

and in the case of *Jitendra Raghuvanshi & Ors. Vs. Babita Raghuvanshi & Anr.* (2013) 4 SCC 58, wherein the Supreme Court in respect of the matrimonial disputes has specifically held as follows:-

“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 thus considered appropriate in the interest of justice that the prayer made by the petitioners seeking quashing of the FIR No. 1097/2014, registered at PS Dabri, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom is allowed and thus the FIR No. 1097/2014, registered at PS Dabri, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioner no. 1 Youraj Goroong s/o Sh. Kumar Singh, the petitioner no. 2 Mohan Bahadur s/o Sh. Chitar Bahadur and the petitioner no. 3 Chanda w/o Mohan Bahadur are quashed.

The petition is disposed of.

ANU MALHOTRA, J

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CRL.M.C. 496/2018

YOURAJ GOOROONG & ORS versus

THE STATE GOVT OF NCT OF DELHI & ANR

Statement of CW1 : ASI Neeraj, PS Dabri, Delhi

ON S.A.

I identify the petitioner no. 1 Youraj Gooroong s/o Sh. Kumar Singh, the petitioner no. 2 Mohan Bahadur s/o Sh. Chitar Bahadur and the petitioner no. 3 Chanda w/o Mohan Bahadur as being the accused in relation to the FIR No. 1097/2014, registered at PS Dabri, under Sections 498A/406/34 of the Indian Penal Code, 1860. There are no other persons arrayed as accused in the said FIR. I also identify the respondent no. 2 Sheetal Gooroong d/o Sh. Inder Bahadur Rana, present today in the court i.e. the complainant of the FIR No. 1097/2014, registered at PS Dabri, under Sections 498A/406/34 of the Indian Penal Code, 1860. Photocopies of the proof of identity in the form of Aadhar cards of the petitioners no. 1 to 3 and the respondent no. 2 are Ex. CW1/A to Ex. CW1/D respectively (originals seen and returned).

ANU MALHOTRA, J

RO & AC

JANUARY 31, 2018/MK

Statement of CW2 : Sheetal Rana d/o Sh. Inder Bahadur Rana, aged 27 years r/o 109/12, Upper Cantt. Area, Distt. Sirmaur, Teh. Nahan, Himachal Pradesh – 173001.

ON S.A.

My affidavit annexed to the petition bears my signature thereon at points-A and B on Ex.CW2/A. The copy of the Settlement Deed executed between me and the petitioner no. 1 bears my signature thereon at points-A on each page on Ex.CW2/B. I have signed both these documents voluntarily of my own accord without any duress or coercion from any quarter and without anyone's influence. The marriage between me and the petitioner no.1 has since been dissolved vide a decree of divorce dated 19.01.2018 of the Court of the Principal Judge, Family Court, South-West District, Dwarka, New Delhi in HMA No. 156/18 under Sections 13B(2) of the Hindu Marriage Act, 1955, photocopy of which is on record as Ex.CW2/C and pursuant to the said settlement arrived at between me and the petitioners, I have received a sum of Rs.10 lacs in terms of the said Settlement Deed dated 02.06.2017 and a balance sum of Rs.5 lacs has been received by me today in the Court D.D. No. 989585 dated 24.01.2018 drawn on State Bank of India in my name as Sheetal Rana, photocopy of which is on record as Ex.CW2/D. Now there are no claims of mine left against the petitioners. There is no child of the wedlock. I have studied till 10th standard and I want to intend to study further. I thus do not oppose the prayer made by the petitioner seeking quashing of the FIR No. 1097/2014, registered at

PS Dabri, under Sections 498A/406/34 of the Indian Penal Code, 1860 nor do I want the petitioners 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
JANUARY 31, 2018/MK**