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

+ **CRL.M.C. 520/2018**

KRISHAN DRALL & ORS

..... Petitioners

Through Mr. Rakesh Kaliraman, Adv.

versus

STATE & ANR

..... Respondents

Through Mr. Raghuvinder Varma, APP for State

ASI Tej Ram, PS Najafgarh, Delhi

Mr. Sunil Sehrawat, Adv. for r-2

Respondent No.2 in person

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

01.02.2018

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CRL.M.A. 1906/2018

This is an application for seeking exemption from filing certified copies of the annexures with the petition, which is allowed subject to just exceptions.

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Vide the present petition, the petitioner seeks quashing of FIR No.269/2013, registered at PS Najafgrah, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom submitting to the effect that the matrimonial discord between petitioner No.1 and the respondent No.2 has since been resolved and all disputes between the petitioners and the respondent No.2 have been settled

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in view of the dissolution of marriage between the petitioner No.1 and the

respondent No.2 on 21.11.2017 vide the decree of divorce by mutual consent under Section 13 (B)(2) Hindu Marriage Act, 1955 in HMA no. 3339/2017 passed by the Court of Principal Judge, Family Courts, Dwarka, New Delhi copy of which is on the record as Ex. CW2/C.

The Investigating Officer of the case present today in Court has identified the petitioner no. 1 Shri Krishan Drall, petitioner No.2 Shri Jagvir Singh, petitioner No.3 Smt Vidhya, petitioner No.4 Smt. Geeta as being the four accused in relation to FIR No.269/2013, registered at PS Najafgarh, under Sections 498A/406/34 Indian Penal Code, 1860 registered on the complaint of the respondent no.2 and Ms. Reena. He also identified Ms.Reena/ respondent no. 2 being the complainant of the case, who is also present today in the Court. The Investigating Officer 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 in the form photocopies of their Aadhar Cards and photocopy of PAN Card of respondent No. 2 are on the record as Ex. CW1/A to Ex. CW1/E respectively (Originals 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 and has further testified to having signed the settlement dated 09.05.2017 arrived at the Counselling Cell, Family Courts, Dwarka are bearing 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 copy of which is on the record as Ex. CW2/B. She has also testified to the

marriage between her and petitioner No.1 having been dissolved on 21.11.2017 vide the decree of divorce by mutual consent under Section 13 (B)(2) Hindu Marriage Act, 1955 in HMA no. 3339/2017 passed by the Court of Principal Judge, Family Courts, Dwarka, New Delhi. She has further testified to the effect that pursuant to the settlement arrived at between her and the petitioners, a total sum of Rs.7,70,000/- was agreed to be paid by the petitioners to her out of which a sum of Rs.5,00,000/- has been received by her during the proceedings under Section 13B(1) and 13B(2) of the Hindu Marriage Act and the balance sum of Rs. 2,70,000/- received by her today from the petitioners in the form of a demand draft bearing no. 480681 dated 29.01.2018 in the name of her minor child, i.e., Lakshay Drall drawn on the Syndicate Bank, copy of which is on the record as Ex. CW2/D. She has further stated that there are now no claims of her left against the petitioners and in terms of the settlement arrived at between the parties, the minor child shall remain in her custody and she does not oppose the prayer made by the petitioners seeking quashing of the FIR No.269/2013, registered at PS Najafgarh, under Sections 498A/406/34 Indian Penal Code, 1860. She also states that she does not want the petitioner nos. 1 to 4 to be punished in relation to the said offence punishable under Sections 498A/406/34 IPC, 1860.

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.

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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 that she has studied upto Standard 12th and she has made this 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 her minor child 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,***

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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

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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.269/2013, registered at PS Najafgrah, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioners.

In view thereof the FIR No.269/2013, registered at PS Najafgrah, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the the petitioner no.1 Shri Krishan Drall, petitioner No.2 Shri Jagvir Singh, petitioner No.3 Smt Vidhya, petitioner No.4 Smt. Geeta are quashed.

The petition is disposed of.

ANU MALHOTRA, J

FEBRUARY 01, 2018

Aj/ neha

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KRISHAN DRALL & ORS.

Vs. STATE (NCT OF DELHI) & ANR

Statement of CW1 : SI Tej Ram PS Najafgrah, Delhi.

ON S.A.

I identify the petitioner no.1 Shri Krishan Drall, petitioner No.2 Shri Jagvir Singh, petitioner No.3 Smt Vidhya, petitioner No.4 Smt. Geeta as being the four accused in relation to FIR No.269/2013, registered at PS Najafgarh, under Sections 498A/406/34 Indian Penal Code, 1860 registered

on the complaint of the respondent no.2 and Ms. Reena. I also identify Ms.Reena/ 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 in the form photocopies of their Aadhar Cards and photocopy of PAN Card of respondent No. 2 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
FEBRUARY 01, 2018

Statement of CW2 : Ms. Reena, d/o Sh. Rakesh Kumar, age 25 years, r/o House No. 231, Roshan Garden, Najafgarh, New Delhi.

ON S.A.

I have studied up to standard 12th. I have come to this Court to take back my case i.e. my complaint registered as an FIR against petitioner no.1 Shri Krishan Drall, petitioner No.2 Shri Jagvir Singh, petitioner No.3 Smt Vidhya, petitioner No.4 Smt. Geeta present today in Court at PS Najafgarh, 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 dated 09.05.2017 has been arrived at the Counselling Cell , Family Courts, Dwarka 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. 3339/2017 dated 21.11.2017 of the Court of the Principal Judge, Family Courts, South-West, 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. 7,70,000/- was payable to me by the petitioners and out of which I have already received a

sum of Rs. 5,00,000/- 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. 2,70,000/- received by me today from the petitioners in the form of a demand draft bearing no. 480681 dated 29.01.2018 in the name of my minor child, i.e., Lakshay Drall drawn on the Syndicate Bank, copy of which is on the record as Ex. CW2/D. There are now no claims of mine left against the petitioners and in terms of the settlement arrived at between the parties, the minor child shall remain in my custody. I do not oppose the prayer made by the petitioners seeking quashing of the FIR FIR No.269/2013, registered at PS Najafgarh, under Sections 498A/406/34 Indian Penal Code, 1860 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
FEBRUARU 01, 2018