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

+ **CRL.M.C. 996/2018**

SHRI ARUN @ ADITYA & ORS Petitioners

Through Mohd. Arif, Adv

versus

STATE OF NCT OF DELHI & ANR Respondents

Through Mr. Ashish Dutta, APP for the State
SI Pawan Yadav, PS Pahar Ganj
Mohd. Nabeel, Adv for respondent
no.2 with respondent no.2 in person

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **26.02.2018**

Vide the present petition, the petitioners seek quashing of the FIR No. 460/2014, registered at PS Pahar Ganj, 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 parties and all the disputes between them have been amicably settled.

The Investigating Officer of the case has identified the petitioner nos. 1 to 8 as being the accused in relation to the FIR No. 460/2014, registered at PS Pahar Ganj, under Sections 498A/406/34 of the Indian Penal Code, 1860. He has also identified the respondent no. 2 Smt. Shalu present today in the court i.e. the complainant of the aforesaid FIR. Photocopies of the proof of identities of the petitioners no. 1 to 8 and of the respondent no. 2 are Ex. CW1/A to Ex. CW1/I 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 which she has signed voluntarily of her own accord without any duress or coercion from any quarter and has also testified to having signed the settlement arrived at between the parties and pursuant to which the marriage between her and the petitioner no. 1 has since been dissolved vide a decree of divorce through mutual consent dated 26.11.2016 of the Court of the Principal Judge Family Court, Shahadra, Karkardooma Courts, Delhi in HMA No. 1336/16 under Sections 13B(2) of the Hindu Marriage Act, 1955, the certified copy of which is on the record as Ex.CW2/D. She has further testified to the effect that pursuant to the settlement arrived at between her and the petitioners vide settlement dated 09.02.2015 arrived at between the parties before the Mediation Centre, Tis Hazari Courts, Delhi, certified copy of which is on record as Ex.CW2/B, a total sum of Rs.4 lakhs was to be paid to her by the petitioners of which she has already received a sum of Rs.3 lakhs and balance sum of Rs.1 lakh has since been handed over to her by the petitioners vide D.D. No. 170599 dated 05.01.2018 drawn on Yes Bank Ltd., photocopy of which is on record as Ex.CW2/C. Now there are no claims of hers left against the petitioners in view of the settlement arrived at between her and the petitioners and that the minor child born out of the wedlock is in her custody. that she attained the age of 18 years. *Inter alia* the respondent no. 2 has testified to the effect that in terms of the settlement arrived at between the parties, she does not want the petitioners no. 1 to 8 to be punished and she has no opposition to the quashing of the FIR No. 460/2014, registered at PS Pahar Ganj, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all

consequential proceedings emanating therefrom. The respondent no. 2 submits that she has studied upto 10th standard.

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. 460/2014, registered at PS Pahar Ganj, under Sections 498A/406/34 of the Indian Penal Code, 1860 in view of the settlement arrived at between the parties.

In view of the deposition of the respondent no. 2, identification of the petitioners and the complainant by the Investigating Officer and taking into account the non-opposition on behalf of the State and the testimony of the respondent no. 2, there appears no reason to disbelieve the statements made by the respondent no. 2 voluntarily of her own accord without any duress or coercion from any quarter and the factum that the FIR has apparently been registered on the basis of the matrimonial discord between the petitioner no.1 and the respondent no. 2 which has since been dissolved vide a decree of divorce through mutual consent dated 26.11.2016 of the Court of the Principal Judge Family Court, Shahadra, Karkardooma Courts, Delhi in HMA No. 1336/16 under Sections 13B(2) of the Hindu Marriage Act, 1955 and that all claims between the petitioners and the respondent no. 2 have been settled as testified by the respondent no. 2 and that she is a graduate and that she has arrived at the settlement voluntarily of her own accord without any duress or coercion from any quarter, 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. 460/2014, registered at PS Pahar Ganj, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom is allowed and thus the FIR and all consequential proceedings emanating therefrom against the petitioner nos. 1 to 8 are quashed.

The petition is disposed of.

ANU MALHOTRA, J

FEBRUARY 26, 2018

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IN THE HIGH COURT OF DELHI: NEW DELHI

Crl. M.C. 996/2018

Arun @ aditya & ORS. Vs. STATE & ANR.

26.02.2018

Statement of CW1 : SI PAWAN YADAV, PS PAHAR GANJ, Delhi.

ON S.A.

I identify the petitioner nos. 1 to 8 namely Arun @ Aditya, Kailash, Krishna, Rohit, Ruby, Meenakshi, Monika Otwal and Sharda as being the accused arrayed in FIR No.460/2014, registered at PS Pahar Ganj, under Sections 498A/406/34 Indian Penal Code, 1860. I also identify the respondent no.2 Ms. Shalu present today in Court as being the complainant thereof. The proofs of identity of the petitioner nos. 1 to 8 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/E respectively. (Originals seen and returned.)

Apart from the petitioner no.1, the petitioner nos. 2 to 8 have been put in column-12 and the petitioner no.1 was charge-sheeted for the alleged commission of the offences punishable under Sections 498A/406/34 Indian Penal Code, 1860.

ANU MALHOTRA, J

RO & AC

FEBRUARY 26, 2018

IN THE HIGH COURT OF DELHI: NEW DELHI

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CW-2 STATEMENT OF MS. SHALU D/O DEV RAJ, AGED 27 YEARS, R/O H. NO. 9699, MULTANI DHANDA, STREET NO.9, PAHAR GANJ, DELHI.

On S.A.

I have studied upto 10th standard.

My affidavit dated 19.01.2018, bears my signatures at points A and B on Ex.CW-2/A. The mediation settlement dated 09.02.2015 bears my signatures 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 settlement arrived at between me and the petitioners, the marriage between me and the petitioner no.1 has since been dissolved vide decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 26.11.2016 of the Court of the Judge, Family Court, Shaddara, Karkardooma Courts, New Delhi in HMA No. 13364/16, certified copy of which is on the record as Ex. CW2/D.

Pursuant to the settlement arrived at between me and the petitioners, a total sum of Rs. 4 lakh was to be paid by the petitioners, of which a sum of Rs. 3 lakh has been received by me previously and the balance sum of Rs. 1 lakh has been handed over to me by the petitioner today in Court in the form of a Demand Draft bearing no. 170599 dated 05.01.2018 in my favour, my account is also in the same name, drawn on the Yes Bank Ltd., copy of which

is on the record as Ex. CW2/C. There are no claims of mine left against the petitioners now.

Pursuant to the settlement arrived at between me and the petitioners, the minor child named Vaishnavi born of the wedlock between me and the petitioner no.1 is in my custody and shall continue to remain in my custody till she attains the age of 18 years.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.460/2014, registered at PS Pahar Ganj, under Sections 498A/406/34 Indian Penal Code, 1860 in view of the settlement arrived at between me and the petitioner nos. 1 to 8 nor do I want the petitioner nos. 1 to 8 to be punished in relation thereto.

I have studied upto 10th standard.

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

RO & AC
26.02.2018

ANU MALHOTRA, J