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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 653/2018
RAHUL GOSWAMI & ORS Petitioner
Through: Mr Anil Kumar Chunduru, Adv.

versus

STATE & ANR Respondent
Through: Mr. Kamal Kumar Ghei, APP for
State with ASI Radhey Shyam, PS
Karawal Nagar.
R-2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **07.02.2018**

Vide the present petition, the petitioner seeks quashing of FIR No. 261/2017, registered at PS Karawal Nagar, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom submitting to the effect that the petitioner and the respondent no.2 have arrived at a settlement and the dispute between them has amicably resolved in view of the said settlement.

The Investigating Officer of the case present today in Court has identified the petitioner no. 1 Shri Rahul Goswami, s/o Shri Nathu Giri, petitioner no.2 Shri Nathu Giri, s/o late Shri Krishna Giri, petitioner no.3 Smt. Ram Katori @ Smt. Shakuntala Devi as being the only three accused arrayed in FIR No. 261/2017, registered at PS Karawal Nagar, under Sections 498A/406/34 Indian Penal Code, 1860 and has also identified the respondent no.2 Ms. Jyoti Goswami @ Bhawana present today in Court as being the complainant thereof. The proofs of identity of the petitioner nos. 1

to 3 and of the respondent no. 2 in the form of photocopies of Aadhar Cards are on the record as Ex. CW1/A to Ex. CW1/D respectively, originals of which have been seen and returned.

The respondent no.2 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 the effect that she has also signed the compromise deed dated 26.10.2017, copy of which is on the record as Ex. CW2/B voluntarily of her own accord without any duress or coercion from any quarter. The respondent no.2 has further testified to the effect that the marriage between her and the petitioner no.1 has been dissolved vide a decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 11.12.2017 of the Court of the Principal Judge, Family Court, Central District, Tis Hazari Courts, New Delhi in HMA No. 1421/2017 (copy of which is on the record as Ex. CW2/C). In view of the said settlement, a total sum of Rs. 6.25 lacs was to be paid to her by the petitioners, of which a sum of Rs. 4 lacs has been received by her previously and the balance sum of Rs. 2.25 lac has been handed over to her by the petitioner today in Court in the form of a Demand Draft bearing no. 204652 dated 06.02.2018 in her favour drawn on the Indian Overseas Bank (the respondent no.2 is directed to file a photocopy of the same). She has also testified to the effect that there are no claims of hers left against the petitioners now and in terms of the said settlement arrived at between her and the petitioners, the minor child born of the wedlock between her and the petitioner no.1 is in her custody and shall continue to remain in her custody.

The respondent no.2 has further testified to the effect that she does not

oppose the prayer made by the petitioners seeking quashing of the FIR in question and does not want the petitioners to be punished in relation to the offences punishable under Section 498A/406/34 Indian Penal Code, 1860. The respondent no.2 has further testified to the effect that she is studying in B.A. (Final).

Learned APP for the State submits that there is no opposition to the prayer made by the petitioner seeking quashing of the FIR in question in view of the settlement arrived at between the petitioner and the respondent no.2.

In view of the deposition of the respondent no.2 and non-opposition on behalf of the State in view of the settlement agreement dated 26.10.2017 arrived at between the petitioner and the respondent no.2 and also in view of the dissolution of marriage vide decree dated 11.12.2017 of the Court of the Principal Judge, Family Courts, Central District, Tis Hazari Courts, New Delhi in HMA No. 1421/2017, the level of education of the respondent no.2 there being no reason to disbelieve her statement that she has arrived at a settlement with the petitioner voluntarily of her own accord without any duress, coercion or pressure from any quarter, for maintenance of peace and harmony between the petitioner and the respondent no.2, in view of the matrimonial discord between the petitioner and the respondent no.2 having been dissolved vide dissolution of marriage between the petitioner 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 petitioner seeking quashing of FIR No. 261/2017, registered at PS Karawal Nagar, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner.

In view thereof the FIR No. 261/2017, registered at PS Karawal Nagar, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner no. 1 Shri Rahul Goswami, s/o Shri Nathu Giri, petitioner no.2 Shri Nathu Giri, s/o late Shri Krishna Giri, petitioner no.3 Smt. Ram Katori @ Smt. Shakuntala Devi are quashed.

ANU MALHOTRA, J

FEBRUARY 07, 2018/vm

69

CRL.M.C. 653/2018

RAHUL GOSWAMI & ORS

Vs. STATE & ANR

Statement of CW1 : ASI Radheyshyam, PS Karawal Nagar, Delhi.

ON S.A.

I identify the petitioner no. 1 Shri Rahu Goswami, s/o Shri Nathu Giri, petitioner no.2 Shri Nathu Giri, s/o late Shri Krishna Giri, petitioner no.3 Smt. Ram Katori @ Smt. Shakuntala Devi as being the only three accused arrayed in FIR No. 261/2017, registered at PS Karawal Nagar, under Sections 498A/406/34 Indian Penal Code, 1860 and I also identify the respondent no.2 Ms. Jyoti Goswami @ Bhawana present today in Court as being the complainant thereof. The proofs of identity of the petitioner nos. 1 to 3 and of the respondent no. 2 in the form of photocopies of Aadhar Cards are on the record as Ex. CW1/A and Ex. CW1/D respectively. (Originals seen and returned.)

ANU MALHOTRA, J

RO & AC

FEBRUARY 07, 2018

Statement of CW2 : Smt. Jyoti Goswami, d/o Shri Ramveer Giri, aged 32 years, r/o H.NO. 54-A, Block-A, Street 1, Kamal Vihar, Karawal Nagar, Delhi.

ON S.A.

My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/A. A compromise deed dated 26.10.2017 bears my signature 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.

In view of the said settlement, a total sum of Rs. 6.25 lacs was to be paid to me by the petitioners, of which a sum of Rs. 4 lacs has been received by me previously and the balance sum of Rs. 2.25 lac has been handed over to me by the petitioner today in Court in the form of a Demand Draft bearing no. 204652 dated 06.02.2018 in my favour drawn on the Indian Overseas Bank (the respondent no.2 is directed to file a photocopy of the same). There are no claims of mine left against the petitioners now. In terms of the said settlement arrived at between me and the petitioners, the minor child born of the wedlock between me and the petitioner no.1 is in my custody and shall continue to remain in my custody.

The marriage between me and the petitioner no.1 has been dissolved vide decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 11.12.2017 of the Court of the Principal Judge, Family Court, Central District, Tis Hazari Courts, New

Delhi in HMA No. 1421/2017, copy of which is on the record as Ex. CW2/C. I do not oppose the prayer made by the petitioners seeking quashing of the FIR No. 261/2017, registered at PS Karawal Nagar, under Sections 498A/406/34 Indian Penal Code, 1860 in view of the settlement arrived at between me and the petitioner nos. 1, 2 & 3 nor do I want the petitioner nos. 1, 2 & 3 to be punished in relation thereto.

I am in B.A. (Final).

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 07, 2018**