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

+ CRL.M.C. 569/2018

SANCHIT CHOPRA & ORS

..... Petitioner

Through: Mr. Sanjeev Kumar, Adv.

versus

STATE (GOVT OF NCT OF DELHI) & ANR Respondent

Through: Mr. Izhar Ahmad, APP for State with
SI Amit Kumar, PS Amar Colony.
Mr. Rama, Adv. for R-2.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

05.02.2018

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Vide the present petition, the petitioner seeks quashing of FIR No.369/2015, registered at PS Amar Colony, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom submitting to the effect that a settlement has been arrived at between the petitioner and the respondent no.2 whereby the marriage between the respondent no.2 and the petitioner no.1 has been dissolved vide decree of divorce through mutual.

The Investigating Officer of the case present today in Court has identified the petitioner no. 1 Shri Sanchit Chopra, s/o Shri Dinesh Chopra, petitioner no.2 Shri Dinesh Chopra, s/o late Shri Raghu Nath Chopra, petitioner no.3 Shri Vipra Chopra, d/o Shri Dinesh Chopra as being the accused arrayed in FIR No.369/2015, registered at PS Amar Colony, under Sections 498A/406/34 Indian Penal Code, 1860 and further testified to the

effect that apart from the petitioner nos. 1, 2 & 3, there was another accused Ms. Simmi Chopra arrayed on record who has since expired on 15.10.2017

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and the copy of the death certificate issued by the SDMC is on the record and the same is also detailed in the proceedings dated 27.11.2017 in FIR 369/2015 of the Court of MM (Mahila Court) SED, Saket, copy of which is on the record as Ex. CW1/A. The Investigating Officer has also identified the respondent no.2 Ms. Shubra 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 PAN Card of the petitioner no.1 and photocopies of Aadhar Cards of the petitioner nos. 2 & 3 and of the respondent no.2 are on the record as Ex. CW1/A and Ex. CW1/D respectively. (Originals 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 voluntarily of her own accord without any duress or coercion from any quarter. The respondent no.2 has further testified to the effect that a settlement has been arrived at between her and the petitioners and pursuant to the same a sum of Rs. 4.5 lacs was to be paid by the petitioners, of which a sum of Rs. 3.5 lacs has been received by her previously and the balance sum of Rs. 1 lac has been handed over to her by the petitioner today in Court in the form of Manager's Cheque bearing no. 208856 dated 19.01.2018 in her favour drawn on HDFC Bank, copy of which is on the record as Ex. CW2/B. She has further testified to the effect that there are no claims of hers left against the petitioners now. She has further testified to the effect that the marriage between her 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 01.12.2017 of the Court of the Principal Judge, Family Court, Saket Courts, New Delhi in HMA No. 1151/17, certified copy of which is on the record as Ex. CW2/C.

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She has further testified to the effect that she does not oppose the prayer made by the petitioner seeking quashing of FIR No.369/2015, registered at PS Amar Colony, under Sections 498A/406/34 Indian Penal Code, 1860 and nor does she want the petitioners to be punished in relation thereto. The respondent no.2 has further testified to the effect that she is an MBA and works in a Real Estate Company.

Learned APP for the State submits that in the circumstances of the case, 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 petitioners and the respondent no.2 and in view of the demise of Ms. Simmi Chopra.

In view of the deposition of the respondent no.2, there being no reason to disbelieve her statement that she has made her statement voluntarily of her own accord without any duress, coercion or pressure from any quarter and that the identification of the petitioner nos. 1, 2 & 3 and the stated demise of co-accused Simmi Chopra, identification of the respondent no.2 as identified by the substituted Investigating Officer present today in Court on the basis of their identity proofs and that all claims of the petitioners and the respondent no.2 have since been settled, in view of the marriage between petitioner no.1 and the respondent no.2 having been dissolved vide decree of divorce through mutual consent, taking into account

the factum that the FIR in question apparently is indicated to have been registered on the basis of the matrimonial discord between the petitioner no.1 and the respondent no.2 which has since been resolved by the dissolution of marriage vide decree dated 01.12.2017 of the Court of the Principal Judge, Family Court, Saket Courts, New Delhi in HMA No. 1151/17 Ex. CW2/C and taking into account the non-opposition on behalf

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of the State for 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
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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.369/2015, registered at PS Amar Colony, 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.369/2015, registered at PS Amar Colony, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the the petitioner no.

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1 Shri Sanchit Chopra, s/o Shri Dinesh Chopra, petitioner no.2 Shri Dinesh Chopra, s/o late Shri Raghu Nath Chopra, petitioner no.3 Shri Vipra Chopra, d/o Shri Dinesh Chopra are quashed.

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SANCHIT CHOPRA & ORS

Vs. STATE (GOVT OF NCT OF DELHI) & ANR.

Statement of CW1 : SI Amit Kumar, PS Amar Colony, Delhi.

ON S.A.

On the basis of their identity proofs, I identify the petitioner no. 1 Shri Sanchit Chopra, s/o Shri Dinesh Chopra, petitioner no.2 Shri Dinesh Chopra, s/o late Shri Raghu Nath Chopra, petitioner no.3 Shri Vipra Chopra, d/o Shri Dinesh Chopra as being the accused arrayed in FIR No.369/2015, registered at PS Amar Colony, under Sections 498A/406/34 Indian Penal Code, 1860. Apart from the petitioner nos. 1, 2 & 3, there was another accused Ms. Simmi Chopra arrayed on record who has since expired on 15.10.2017 and the copy of the death certificate issued by the SDMC is on the record and the same is also detailed in the proceedings dated 27.11.2017 in FIR 369/2015 of the Court of MM (Mahila Court) SED, Saket, copy of which is on the record as Ex. CW1/A. I also identify the respondent no.2 Ms. Shubra 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 PAN Card of the petitioner no.1 and photocopies of Aadhar Cards of the petitioner nos. 2 & 3 and of the respondent no.2 are on the record as Ex. CW1/A and Ex. CW1/D respectively. (Originals seen and returned.)

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Statement of CW2 : Smt. Shubra, d/o Shri Sushil Kumar, aged 32 years, r/o K-10, 2nd Floor, Sriniwas Puri, New Delhi.

ON S.A.

My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/A, which I have signed voluntarily of my own accord without any duress, pressure or coercion from any quarter.

A settlement has been arrived at between me and the petitioners and pursuant to the same a sum of Rs. 4.5 lacs was to be paid by the petitioners, of which a sum of Rs. 3.5 lacs has been received by me previously and balance sum of Rs. 1 lac has been handed over to me by the petitioner today in Court in the form of Manager's Cheque bearing no. 208856 dated 19.01.2018 in my favour drawn on HDFC Bank, copy of which is on the record as Ex. CW2/B. There are no claims of mine left against the petitioners now.

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 01.12.2017 of the Court of the Principal Judge, Family Court, Saket Courts, New Delhi in HMA No. 1151/17. There is no child born of the wedlock between me and the petitioner no.1. I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.369/2015, registered at PS Amar Colony, 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 an MBA and work in a Real Estate Company.

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**