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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 537/2018**

SHRI JAGDISH & ORS Petitioners
Through: Mr.Vipin Mishra, Advocate

versus

THE STATE GOVT OF NCT OF DELHI & ANR Respondents
Through: Mr.Izhar Ahmad, APP for State with
ASI Babu Ram, PS Hauz Qazi

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **02.02.2018**

Vide the present petition, the petitioners No. 1 to 6, *namely*, (1) Jagdish, (2) Moti Ram Chhilwal, (3) Vimla Devi, (4) Raju Chhilwal, (5) Geeta Devi and (6) Chhoti Devi seek quashing of FIR No.121/2014, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Hauz Qazi submitting *inter alia* to the effect that a settlement has been arrived at between the petitioners No.1 to 3, *namely*, Jagdish, Moti Ram Chhilwal and Vimla Devi and that the respondent No.2 is residing with the petitioners No. 1 to 3 and the respondent No.2 at the matrimonial home of the respondent No.2 at H. No. 16/314, Amrit Kaur Puri, Tank road, Near Community Hall, Karol Bagh, New Delhi with effect from 9.11.2016 and that there are now no problems between them.

The Investigating Officer of the case is present and has identified the petitioners No. 1 to 6 , *namely*, (1) Jagdish, (2) Moti

Ram Chhilwal, (3) Vimla Devi, (4) Raju Chhilwal, (5) Geeta Devi and (6) Chhoti Devi and the respondent No.2 present in the Court today. Proofs of identity have been produced by the petitioners No.1 to 6 as being the accused arrayed in the FIR in question and the respondent No.2 present in the Court. The proofs of identity of the petitioners No.1 to 6 are on the record in the form of Aadhar Cards, being Ex.CW-1/A, Ex.CW-1/B, Ex.CW-1/C, Ex. CW-1/D, Ex. CW-1/E and EX.CW-1/F and the proof of identity of the respondent no.2 in the form of Aadhar Card being EX.CW-1/G respectively, originals of which have been seen and returned.

The respondent No.2 on her examination on oath by the Court has affirmed having signed her affidavit (EX.CW-2/A) annexed to the petition and also testified to the effect that she has studied till the final year and has been living with the petitioners No.1 to 3 w.e.f. 9.11.2016 without any problems and thus she does not oppose the prayer made by the petitioners No.1 to 6, *namely*, (1) Jagdish, (2) Moti Ram Chhilwal, (3) Vimla Devi, (4) Raju Chhilwal, (5) Geeta Devi and (6) Chhoti Devi and that she has made her statement voluntarily of her own accord without any duress, pressure or coercion from any quarter.

In view of the deposition made by the respondent No.2 and the averments made in the petition learned APP for the State also does not oppose the prayer made by the petitioners seeking quashing of the FIR No.121/2014, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Hauz Qazi.

In view of the FIR having apparently been registered due to a

matrimonial discord which has since been resolved inasmuch as the petitioner No.1 and the respondent No.2 are now living together and there appears no reason to disbelieve the statement of the respondent No.2 that she has now no problems with the petitioners and thus she does not oppose the prayer made by the petitioners seeking quashing of the FIR in question and that she has made her statement voluntarily of her own accord without any duress, pressure or coercion from any quarter, 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 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, in the interest of justice, to put a quietus to the litigation between the parties so that peace and harmony between them is restored to allow the prayer made by the petitioners seeking quashing of the FIR in question and all consequential proceedings emanating therefrom against the petitioners No. 1 to 6, *namely*, (1) Jagdish, (2) Moti Ram Chhilwal, (3) Vimla Devi, (4) Raju Chhilwal, (5) Geeta Devi and (6) Chhoti Devi is allowed and thus the FIR No.121/2014, Police Station Hauz Qazi, under Sections 498A/406/34 Indian Penal Code, 1860, and all consequential proceedings emanating therefrom against the petitioners No. 1 to 6 are quashed.

The petition is disposed of.

ANU MALHOTRA, J

FEBRUARY 02, 2018/sv

IN THE HIGH COURT OF DELHI: NEW DELHI

Item No. 45

CrI. M.C. 537/18

JAGDISH & ORS. Vs. STATE & ANR.

02.02.2018

**CW-1 ASI BABU RAM, POLICE STATION HAUZ QAZI
ON S.A.**

I identify the petitioners No.1 to 6, *namely*, (1) Jagdish, (2) Moti Ram Chhilwal, (3) Vimla Devi, (4) Raju Chhilwal, (5) Geeta Devi and (6) Chhoti Devi as the accused and the respondent No.2 Nitasha, the complainant of the FIR No.121/2014, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Hauz Qazi present in the Court today. The original Aadhaar Cards of the petitioner No.1 473184899684, Petitioner No.2 254019081681, Petitioner No.3 616706693210, Petitioner No.4 390320700291, Petitioner No.5, 392963031098 and Petitioner No.6 507025382161, and the respondent No.2 bearing No.264435484202 have been produced. The photocopies of the same qua the petitioners No.1 to 6 being Ex.CW-1/A, Ex.CW-1/B, Ex.CW-1/C, Ex.CW-1/D, Ex.CW-1/E, and Ex.CW-1/F and of the respondent No.2 being Ex.CW-1/G respectively (Originals seen & returned.).

Apart from the petitioners No.1 to 6, no other persons are arrayed as the accused in relation to the present FIR No.121/2014, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Hauz Qazi.

RO & AC
02.02.2018

ANU MALHOTRA, J

IN THE HIGH COURT OF DELHI: NEW DELHI

Item No. 45

CrI. M.C. 537/18

JAGDISH & ORS. Vs. STATE & ANR.

02.02.2018

**CW-2 NITASHA W/O JAGDISH, D/O NATHI LAL AGED 29 YEARS,
R/O H.NO.1768, GALI KHATIKAN, CHOWK SHAH MUBARAK,
AJMERI GATE, DELHI-6 (PARENTAL) AND NOW R/O 16/314,
AMRIT KAUR PURI, TANK ROAD, NEAR COMMUNITY HALL,
KAROL BAGH, NEW DELHI
ON S.A.**

I have studied till final year.

I am living with the petitioner No. 1 w.e.f. 9.11.2016 without any problems now along with my parents-in-law, i.e., petitioners No. 2 and 3, namely, Moti Ram Chhilwal (Father-in-law) and Vimla Devi (Mother-in-law) without any problems at 16/314, Amrit Kaur Puri, Tank Road, Near Community Hall, Karol Bagh, New Delhi. As there are now no problems between me and the petitioners No.1 to 6, *namely*, (1) Jagdish, (2) Moti Ram Chhilwal, (3) Vimla Devi, (4) Raju Chhilwal, (5) Geeta Devi and (6) Chhoti Devi and I thus do not oppose the prayer made by the petitioners seeking quashing of the FIR No.121/2014, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Hauz Qazi nor do I want any of the petitioners No.1 to 6 to be punished in relation thereto.

My affidavit dated 30.01.2018 bears my signatures at points A and B on EX.CW-2/A which I have signed voluntarily of my own accord without any duress, pressure or coercion from any quarter.

**RO & AC
02.02.2018**

ANU MALHOTRA, J