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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1243/2018 & CRL.M.A. 4558/2018**

MANMOHAN BANSAL & ORS Petitioner

Through: Mr. Rakesh Kumar, Adv.

versus

THE STATE & ANR Respondent

Through: Mr. Kewal Singh Ahuja, APP for
State ASI Ramroop, PS Subhash
Place.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **12.03.2018**

CRL.M.A. 4558/2018 (Exemption)

Exemption allowed, subject to just exceptions.

CRL.M.C. 1243/2018

Vide the present petition, the petitioner seeks quashing of FIR No. 270/2016, registered at PS Subhash Place, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom submitting to the effect that the petitioners and the respondent no.2 have arrived at a settlement. A perusal of the case proceedings, proceedings of the matter are indicated to be listed as FIR No. 270/2016, PS Saraswati Vihar, the Registry is directed to rectify this error.

The Investigating Officer of the case present today in Court has identified the petitioner no. 1 Shri Manmohan Bansal, s/o Shri Jai Bhagwan, petitioner no.2 Shri Jai Bhagwan, s/o late Shri Lakhmi Chand, petitioner

no.3 Smt. Urmila Bansal, w/o Shri Jai Bhagwan and the petitioner no.4 Smt. Shweta, w/o Shri Harish Gupta as being the accused arrayed in FIR No. 270/2016, registered at PS Subhash Place, under Sections 498A/406/34 Indian Penal Code, 1860 and has also identified the respondent no.2 Ms. Neelu Aggarwal 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 their original documents produced by them are on the record as Ex. CW1/A to Ex. CW1/E 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 and has further testified to having signed the mediation settlement dated 07.06.2016 arrived at the Counselling Cell before the Court of the Principal Judge, Family Court, North-West, Rohini, Delhi 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 decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 23.02.2017 of the Court of the Principal Judge, North-West, Family Courts, Rohini Courts, New Delhi in HMA No. 299/2017, certified copy of which is on the record as Ex. CW2/C and that there is no child born of the wedlock between her and the petitioner no.1. *Inter alia* in terms of the settlement arrived at between her and the petitioners, a total sum of Rs. 4 lacs was to be paid to her by the petitioners, of which a sum of Rs. 3 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 a Demand Draft bearing no. 181825 dated 07.03.2018 in her favour drawn on IndusInd Bank, copy of which is on the record as Ex. CW2/D and that there are no claims of hers left against the petitioners now. She has further stated that she is pursuing M.Com and presently gives tuition and that she has made her statement voluntarily vide which she does not oppose the prayer made by the petitioner nor does she want the petitioners to be punished.

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 deposition of the respondent no.2, there is no reason to disbelieve her statement that she has made arrived at a settlement with the petitioners voluntarily of her own accord without any duress, coercion or pressure from any quarter, the marriage between the petitioner no.1 and the respondent no.2 having been dissolved vide a decree of divorce through mutual consent, the matrimonial discord between the petitioner no.1 and the respondent no.2 as apparently resolved and taking into account the non-opposition on behalf of the State it is considered appropriate to put a quietus to the litigation 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.]”

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)

for maintenance of peace and harmony between the petitioner and the respondent no.2, the FIR No. 270/2016, registered at PS Subhash Place, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners are thus quashed.

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MANMOHAN BANSAL & ORS

Vs. THE STATE & ANR

Statement of CW1 : ASI Ramroop, PS Subhash Place, Delhi.

ON S.A.

I identify the petitioner no. 1 Shri Manmohan Bansal, s/o Shri Jai Bhagwan, petitioner no.2 Shri Jai Bhagwan, s/o late Shri Lakhmi Chand, petitioner no.3 Smt. Urmila Bansal, w/o Shri Jai Bhagwan and the petitioner no.4 Smt. Shweta, w/o Shri Harish Gupta as being the accused arrayed in FIR No. 270/2016, registered at PS Subhash Place, under Sections 498A/406/34 Indian Penal Code, 1860. I also identify the respondent no.2 Ms. Neelu Aggarwal 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 their original documents produced by them are on the record as Ex. CW1/A to Ex. CW1/E respectively. (Originals seen and returned.)

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MANMOHAN BANSAL & ORS

Vs. THE STATE & ANR

Statement of CW2 : Ms. Neelu Aggarwal, d/o Shri Ram Gopal Aggarwal, aged 27 years, r/o E-566, Block-E, Shakur Pur, New Delhi.

ON S.A.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No. 270/2016, registered at PS Subhash Place, under Sections 498A/406/34 Indian Penal Code, 1860 nor do I want the petitioners to be punished in relation thereto for the offences punishable under Sections 498A/406/34 Indian Penal Code in view of the settlement arrived at between me and the petitioners at the Counselling Cell before the Court of the Principal Judge, Family Court, North-West, Rohini, Delhi.

My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/A. The settlement deed dated 07.06.2016 arrived at between me and the petitioners bears my signature thereon at point-A 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 been dissolved vide decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 23.02.2017 of the Court of the Principal Judge, North-West, Family Courts, Rohini Courts, New Delhi in HMA No. 299/2017, certified copy of which is on the record as Ex. CW2/C. There is no child born of the wedlock between me and the petitioner no.1.

Pursuant to the settlement arrived at between me and the petitioners, a

total sum of Rs. 4 lacs was to be paid to me by the petitioners, of which a sum of Rs. 3 lacs has been received by me previously and the balance sum of Rs. 1 lac has been handed over to me by the petitioner today in Court in the form of a Demand Draft bearing no. 181825 dated 07.03.2018 in my favour drawn on IndusInd Bank, copy of which is on the record as Ex. CW2/D. There are no claims of mine left against the petitioners now.

I am pursuing M.Com and presently give tuition.

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

ANU MALHOTRA, J

**RO & AC
MARCH 12, 2018**