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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 962/2018**
VISHAL DAGAR & ORS Petitioner
Through Mr. Rakesh Kumar, Adv. with
petitioners in person.
versus

THE STATE GOVT OF NCT OF DELHI & ANR..... Respondent
Through Mr. Sanjeev Sabharwal, APP for State
with SI Chandrakanta PS Kapashera
Mr. Manoj Kumar, Adv. for R2 with
R2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **23.02.2018**

Vide the present petition, the petitioner no. 1 Vishal Dagar s/o Sh. Mahender Singh Dagar, the petitioner no. 2 Mahender Singh Dagar s/o Sh. Hosyar Singh, the petitioner no. 3 Smt. Mithlesh Devi w/o Sh. Mahender Singh Dagar and the petitioner no. 4 Vikas Dagar s/o Sh. Mahender Singh Dagar seek quashing of the FIR No. 350/2015, registered at PS Kapashera, under Sections 498A/406/34 of the Indian Penal Code, 1860 submitting *inter alia* to the effect that the matrimonial discord between the petitioner no. 1 and the respondent no. 2 has since been resolved pursuant to the settlement arrived at the Mediation Centre, Dwarka Courts, New Delhi, certified copy of which is on record as Ex.CW2/A and pursuant to the said settlement arrived at between the petitioner no. 1 and the respondent no. 2, the child born out of the wedlock are living together without any problems now.

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The Investigating Officer of the case has identified the petitioner no. 1

Vishal Dagar s/o Sh. Mahender Singh Dagar, the petitioner no. 2 Mahender Singh Dagar s/o Sh. Hosyar Singh, the petitioner no. 3 Smt. Mithlesh Devi w/o Sh. Mahender Singh Dagar and the petitioner no. 4 Vikas Dagar s/o Sh. Mahender Singh Dagar as being the accused in relation to the FIR No. 350/2015, registered at PS Kapashera, under Sections 498A/406/34 of the Indian Penal Code, 1860. He has also identified the respondent no. 2 Smt. Neelu w/o Sh. Vishal Dagar present today in the Court i.e. the complainant of the FIR No. 350/2015, registered at PS Kapashera, under Sections 498A/406/34 of the Indian Penal Code, 1860. Photocopies of the proof of identities of the petitioners no. 1 to 4 and of the respondent no. 2 are Ex. CW1/A to Ex. CW1/E 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/B annexed to the petition and has also testified to having signed the settlement arrived at the Mediation Centre, Dwarka Courts, New Delhi, certified copy of which is on the record as Ex.CW2/A of her own accord without any duress or coercion from any quarter. *Inter alia* the respondent no. 2 has testified to the effect she has been living with the petitioners since November, 2016 and the child is also living with them and that there are no problems now between them and thus does not seek to pursue any further proceedings in relation to the FIR No. 350/2015, registered at PS Kapashera, under Sections 498A/406/34 of the Indian Penal Code, 1860 against the petitioners no. 1 to 4 and she does not want them to be punished in relation thereto. She stated further that she

since stopped working for her child.

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. 350/2015, registered at PS Kapashera, 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, 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, taking into account also her educational qualification making it apparent that she is aware and understands the impact of making of her statement and 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. 350/2015, registered at PS Kapashera, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom is allowed and thus the FIR No. 350/2015, registered at PS Kapashera, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioner no. 1 Vishal Dagar s/o Sh. Mahender Singh Dagar, the petitioner no. 2 Mahender Singh Dagar

s/o Sh. Hosyar Singh, the petitioner no. 3 Smt. Mithlesh Devi w/o Sh. Mahender Singh Dagar and the petitioner no. 4 Vikas Dagar s/o Sh. Mahender Singh Dagar are quashed.

The petition is disposed of.

ANU MALHOTRA, J

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VISHAL DAGAR & ORS versus

THE STATE GOVT OF NCT OF DELHI & ANR

Statement of CW1 : SI Chandrakanta PS Kapashera Delhi.

ON S.A.

I identify the petitioner no. 1 Vishal Dagar s/o Sh. Mahender Singh Dagar, the petitioner no. 2 Mahender Singh Dagar s/o Sh. Hosyar Singh, the petitioner no. 3 Smt. Mithlesh Devi w/o Sh. Mahender Singh Dagar and the petitioner no. 4 Vikas Dagar s/o Sh. Mahender Singh Dagar as being the accused in relation to the FIR No. 350/2015, registered at PS Kapashera, under Sections 498A/406/34 of the Indian Penal Code, 1860. I also identify the respondent no. 2 Smt. Neelu w/o Sh. Vishal Dagar present today in the court i.e. the complainant of the FIR No. 350/2015, registered at PS Kapashera, under Sections 498A/406/34 of the Indian Penal Code, 1860. Photocopies of the proof of identities of the petitioners no. 1 to 4 and of the respondent no. 2 are Ex. CW1/A to Ex. CW1/E respectively (original seen and returned).

ANU MALHOTRA, J

RO & AC

FEBRUARY 23, 2018/MK

Statement of CW2 : Smt. Neelu w/o Sh. Vishal Dagar d/o Sh. Harinder Singh Nehra, aged 35 years r/o Flat No. 1004, Para Tierea, Tower-15, Sector-137, NOIDA, UP.

ON S.A.

In terms of the settlement arrived at between me and the petitioners arrived at the Mediation Centre, Dwarka Courts, New Delhi, certified copy of which bears my signatures thereon at points-A on each page thereon on Ex.CW2/A, I have been living with the petitioners since November, 2016 and the child is also living with us. There are no problems between me and the petitioner no. 1 Vishal Dagar s/o Sh. Mahender Singh Dagar, the petitioner no. 2 Mahender Singh Dagar s/o Sh. Hosyar Singh, the petitioner no. 3 Smt. Mithlesh Devi w/o Sh. Mahender Singh Dagar and the petitioner no. 4 Vikas Dagar s/o Sh. Mahender Singh Dagar. In view thereof, I do not seek to pursue any further proceedings in relation to the FIR No. 350/2015, registered at PS Kapashera, under Sections 498A/406/34 of the Indian Penal Code, 1860 against the petitioners no. 1 to 4 and I do not want them to be punished in relation thereto. I have done M.Com and I was previously working as an Executive which job I have given up to look after my child. My affidavit annexed to the petition bears my signature thereon at points-A and B on Ex.CW2/B, which I have signed voluntarily of my own accord without any duress or coercion from any quarter. Photocopy of the proof of identity in the form of my Aadhar Card is placed on record as CW2/C (original seen and returned). I have made this statement voluntarily of my

own accord without any duress or coercion from any quarter.

ANU MALHOTRA, J

**RO & AC
FEBRUARY 23, 2018/MK**