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

+ CRL.M.C. 1168/2018 & CRL.M.A. 4257/2018
SUNIL LALWANI & ORS. Petitioner

Through: Mr. Rajesh Kumar, Adv.

versus

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

Through: Mr. Izhar Ahmad, APP for State with
ASI Dashiant, PS Vikas Puri.
Mr. Amit Kumar, Adv. for R-2 with
R-2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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07.03.2018

CRL.M.A. 4257/2018 (Exemption)

Exemption allowed, subject to just exceptions.

CRL.M.C. 1168/2018

Vide the present petition, the petitioner seeks quashing of FIR No. 561/2014, registered at PS Vikas Puri, 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 petitioners and the respondent no.2 and the matrimonial discord between the petitioner no.1 and the respondent no.2, as a consequence of which this FIR is indicated to have been registered, has since been resolved vide dissolution of the marriage between the petitioner no.1 and the respondent no.2 vide a decree of divorce and all claims between the petitioners and the respondent

no. 2 have also been settled in terms of the mediation settlement dated 20.10.2016 arrived at at the Delhi Mediation Centre, Tis Hazari Courts, Delhi.

The substitute Investigating Officer of the case present today in Court has identified the petitioner no. 1 Shri Sunil Lalwani, s/o Shri Mohan Lal Lalwani, petitioner no.2 Smt. Rekha Lalwani, w/o Shri Mohan Lal Lalwani, petitioner no.3 Shri Puneet Lalwani, s/o Shri Mohan Lal Lalwanias, petitioner no.4 Smt. Sangeeta Hemrajani @ Pooja, w/o Shri Vijay Kumar Hemrajani and petitioner no.5 Smt. Preeti, w/o Shri Rakesh Kumar being the accused arrayed in FIR No. 561/2014, registered at PS Vikas Puri, under Sections 498A/406/34 Indian Penal Code, 1860 and has also identified the respondent no.2 Ms. Neelam Panjwani present today in Court as being the complainant thereof. The proofs of identity of the petitioner nos. 1 to 5 and of the respondent no. 2 in the form of photocopies of documents produced by them are on the record as Ex. CW1/A and Ex. CW1/F 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 having signed the mediation settlement dated 20.10.2016 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 in terms of the settlement arrived at between her and the petitioners, a total sum of Rs. 4.5 lakh was to be paid to her by the petitioners, of which a sum of Rs. 3 lakhs has been received by her previously and the balance sum of Rs. 1.50 lakhs has been handed over to her by the petitioner today in Court in the form of two Manager's Cheques,

one bearing no. 015834 dated 06.02.2018 for a sum of Rs. 1 lakh and the other bearing no. 015837 dated 07.02.2018 for a sum of Rs. 50,000/- both in her favour both drawn on HDFC Bank, copies of which are on the record as Ex. CW2/C and Ex. CW2/D respectively and that there are no claims of hers left against the petitioners now.

Inter alia the respondent no.2 has further testified qua the aspect of dissolution of the marriage between her and the petitioner no.1 vide decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 19.08.2017 of the Court of the Principal Judge, South-West Distt., Family Court, Dwarka Courts, New Delhi in HMA No. 2564/17, copy of which decree sheet is on the record as Ex. CW2/E. The respondent no.2 has also stated that there is no child born of the wedlock between her and the petitioner no.1 and that she does not oppose the prayer made by the petitioners seeking quashing of the FIR No. 561/2014, registered at PS Vikas Puri, under Sections 498A/406/34 Indian Penal Code, 1860 nor does she want the petitioner nos. 1 to 5 to be punished in relation thereto. She has also stated that she has studied upto standard 12th and is a beautician.

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

In view of the identification of the petitioner nos.1 to 5 and of the respondent no.2, the testimony of the respondent no.2 qua which there is 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 taking into account the non-opposition on behalf of the State, coupled with the settlement arrived at between the petitioners and the respondent no.2 and all claims between the petitioners and the respondent no.2 having been settled and the marriage between the petitioner no.1 and the respondent no.2 having been dissolved vide a decree of divorce through mutual consent, as a consequence of which the matrimonial discord between the petitioner no.1 and the respondent no.2 has also been resolved, it is considered appropriate to put a quietus to the litigation between them, 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 petitioners and the respondent no.2, FIR No. 561/2014, registered at PS Vikas Puri, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners are thus quashed.

ANU MALHOTRA, J

MARCH 07, 2018

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