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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 976/2018
KAPIL TANDON & ORS Petitioner

Through: Ms. Ritu Negi, Adv.

versus

THE STATE GOVT OF NCT OF DELHI & ANR..... Respondent
Through: Kamal Kr. Gheir, APP for State with SI
Avesh Kumar, PS Vivek Vihar.
Mr. Trilok Chand, Adv. for R-2 with R-2.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
26.02.2018

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Vide the present petition, the petitioners seek quashing of FIR No.128/2012, registered at PS Vivek Vihar, 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 parties and pursuant thereto, the marriage between the petitioner no.1 and the respondent no.2 has since been dissolved vide a decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 and all the disputes between the petitioners and the respondent no.2 have been amicably settled.

The Investigating Officer of the case present today in Court has identified the petitioner no. 1 Shri Kapil Tandon, s/o Shri Madan Lal Tandon, petitioner no.2 Ms. Pushpa Tandon, w/o Shri M.L. Tandon, petitioner no.3 Ms. Poonam Wadhwa, w/o Shri Bipul Wadhwa, petitioner no.4 Shri Madan Lal Tandon, s/o late Shri Takem lal Tandon as being the accused arrayed in FIR No.128/2012, registered at PS Vivek Vihar, under Sections 498A/406/34

Indian Penal Code, 1860 and has also identified the respondent no.2 Ms. Ranju Bahl present today in Court as being the complainant thereof. The proofs of identity of the petitioner nos. 1 to 4 and of the respondent no. 2 in the form of photocopies of their Aadhar Cards are on the record as Ex. CW1/A and Ex. CW1/E respectively, originals of which have been seen and returned.

It is also submitted on behalf of the State that apart from the petitioner no.1, the petitioner nos. 2 to 4 have been put in column-12 and the petitioner no.1 was charge-sheeted for the alleged commission of the offences punishable under Sections 498A/406/34 Indian Penal Code, 1860.

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 07.04.2017 arrived at between the parties (copy of which is on the record 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 the marriage between her and the petitioner no.1 has since been dissolved vide decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 22.12.2017 of the Court of the Judge, Family Court, North-West, Rohini Courts, New Delhi in HMA No. 1744/17, certified copy of which is on the record as Ex. CW2/C. *Inter alia* the respondent no.2 has further testified to the effect that pursuant to the settlement arrived at between her and the petitioners, a total sum of Rs. 10 lakhs was to be paid by the petitioners, of which a sum of Rs. 7 lakh has been received by her previously and the balance sum of Rs. 3 lakhs has been

handed over to her by the petitioner today in Court in the form of a Demand Draft bearing no. 080179 dated 18.01.2018 in her favour as Ranju Bahl (her

CRL.M.C. 976/2018

page no. 2 of 5

account is also stated to be in the same name), drawn on the Axis Bank Ltd., copy of which is on the record as Ex. CW2/D and that there are no claims of hers left against the petitioners now and also stated that in terms of the said settlement arrived at between her and the petitioners, the minor child named Kavya born of the wedlock between her and the petitioner no.1 is in her custody and shall continue to remain in her custody. She has further testified to the effect that she does not oppose the prayer made by the petitioners seeking quashing of the FIR in question in view of the settlement arrived at between her and the petitioner nos. 1 to 4 nor does she want the petitioner nos. 1 to 4 to be punished in relation thereto and that she is a graduate.

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 that an amicable settlement has been arrived at between the petitioners and the respondent no.2, 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, the matrimonial discord between the petitioner no.1 and the respondent no.2 having been dissolved vide the dissolution of marriage between the petitioner no.1 and the respondent no.2 through mutual consent and taking into account the non-opposition on behalf of the State, 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

CRL.M.C. 976/2018

page no. 3 of 5

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

CRL.M.C. 976/2018

page no. 4 of 5

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 put a quietus to the litigation between the petitioners and the respondent no.2, for maintenance of peace and harmony between the petitioners and the respondent no.2, it is considered appropriate to allow the prayer made by the petitioners seeking quashing of FIR No.128/2012, registered at PS Vivek Vihar, under Sections 498A/406/34

Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners.

In view thereof the FIR No.128/2012, registered at PS Vivek Vihar, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners are thus quashed.

FEBRUARY 26, 2018/vm
CRL.M.C. 976/2018

ANU MALHOTRA, J

page no. 5 of 5

110

CRL.M.C. 976/2018

KAPIL TANDON & ORS

Vs. THE STATE GOVT OF NCT OF DELHI & ANR

Statement of CW1 : SI Avesh Kumar, PS Vivek Vihar, Delhi.

ON S.A.

I identify the petitioner no. 1 Shri Kapil Tandon, s/o Shri Madan Lal Tandon, petitioner no.2 Ms. Pushpa Tandon, w/o Shri M.L. Tandon, petitioner no.3 Ms. Poonam Wadhwa, w/o Shri Bipul Wadhwa, petitioner no.4 Shri Madan Lal Tandon, s/o late Shri Takem lal Tandon as being the accused arrayed in FIR No.128/2012, registered at PS Vivek Vihar, under Sections 498A/406/34 Indian Penal Code, 1860. I also identify the respondent no.2 Ms. Ranju Bahl present today in Court as being the complainant thereof. The proofs of identity of the petitioner nos. 1 to 4 and of the respondent no. 2 in the form of photocopies of their Aadhar Cards are on the record as Ex. CW1/A and Ex. CW1/E respectively. (Originals seen and returned.)

Apart from the petitioner no.1, the petitioner nos. 2 to 4 have been put in column-12 and the petitioner no.1 was charge-sheeted for the alleged commission of offence punishable under Sections 498A/406/34 Indian Penal Code, 1860.

ANU MALHOTRA, J

RO & AC

FEBRUARY 26, 2018

CRL.M.C. 976/2018

KAPIL TANDON & ORS

Vs. THE STATE GOVT OF NCT OF DELHI & ANR

Statement of CW2 : Smt. Ranju Bahl, d/o Shri Pawan Bahl, aged 37 (plus) years, r/o A-267, 2nd Floor, Surya Nagar, Ghaziabad, UP.

ON S.A.

My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/A. The mediation settlement dated 07.04.2017 bears my signatures thereon on each page at point-A thereof 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 since been dissolved vide decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 22.12.2017 of the Court of the Judge, Family Court, North-West, Rohini Courts, New Delhi in HMA No. 1744/17, certified copy of which is on the record as Ex. CW2/C.

Pursuant to the settlement arrived at between me and the petitioners, a total sum of Rs. 10 lakh was to be paid by the petitioners, of which a sum of Rs. 7 lakh has been received by me previously and the balance sum of Rs. 3 lakh has been handed over to me by the petitioner today in Court in the form of a Demand Draft bearing no. 080179 dated 18.01.2018 in my favour as Ranju Bahl, my account is also in the same name, drawn on the Axis Bank Ltd., copy of which is on the record as Ex. CW2/D. There are no claims of mine left against the petitioners now.

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

the minor child named Kavya born of the wedlock between me and the petitioner no.1 is in my custody and shall continue to remain in my custody.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.128/2012, registered at PS Vivek Vihar, under Sections 498A/406/34 Indian Penal Code, 1860 in view of the settlement arrived at between me and the petitioner nos. 1 to 4 nor do I want the petitioner nos. 1 to 4 to be punished in relation thereto.

I am a Graduate.

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 26, 2018**