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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 856/2018 & CRL.M.A. 3147/2018**
ABHISHEK & ORS Petitioner
Through Mr. Manish Kumar, Adv. with P1 to
P5 in person.
versus

STATE (NCT OF DELHI)& ANR Respondent
Through Mr. Sanjeev Sabharwal, APP for State
with SI Ved Prakash PS Shahbad
Dairy.
Mr. Vishal Dabas, Adv. for R2 with
R2 in person with Ld. Counsel Mr.
Vishal.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **19.02.2018**

CRL.M.A. 3147/2018

CRL.M.A. 3147/2018 is an application filed on behalf of the petitioner seeking exemption from filing certified copies of the annexures. The same is allowed, subject to just exceptions.

The application is disposed of.

CRL.M.C. 856/2018

Learned counsel for the respondent no. 2 submits that he would be filing his vakalatnama during the course of the day. The same be filed accordingly.

Vide the present petition, the petitioner no. 1 Abhishek s/o Late Sh. Karamvir Singh, the petitioner no. 2 Smt. Hukum Kaur w/o Sh. Sukhbir

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Singh, the petitioner no. 3 Jagbir s/o Sh. Sukhbir Singh, the petitioner no. 4 Smt. Sunita w/o Sh. Jagbir Singh and the petitioner no. 5 Smt. Preeti d/o Late Sh. Karamvir Singh seek quashing of the FIR No. 296/2016, registered at PS Shahbad Dairy, under Sections 498A/406/34 of the Indian Penal Code, 1860 and Section 4 of the D.P. Act submitting *inter alia* to the effect that a settlement has been arrived at between the parties.

The Investigating Officer of the case has identified the petitioner no. 1 Abhishek s/o Late Sh. Karamvir Singh, the petitioner no. 2 Smt. Hukum Kaur w/o Sh. Sukhbir Singh, the petitioner no. 3 Jagbir s/o Sh. Sukhbir Singh, the petitioner no. 4 Smt. Sunita w/o Sh. Jagbir Singh and the petitioner no. 5 Smt. Preeti d/o Late Sh. Karamvir Singh as being the accused in relation to the FIR No. 296/2016, registered at PS Shahbad Dairy, under Sections 498A/406/34 of the Indian Penal Code, 1860 and Section 4 of the D.P. Act. He has further testified to the effect that apart from the accused persons, who are present in the court, the other accused named in the FIR namely Sukhbir Singh has since expired and the copy of death certificate in relation thereto has been produced on behalf of the petitioner. He has also identified the respondent no. 2 Rajni w/o Sh. Abhishek present today in the court i.e. the complainant of the FIR No. 296/2016, registered at PS Shahbad Dairy, under Sections 498A/406/34 of the Indian Penal Code, 1860 and Section 4 of the D.P. Act. Photocopies of the proof of identity of the petitioners no. 1 to 5 are on record as 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/A annexed to the petition

and has also testified to having signed the settlement Agreement dated 19.04.2016 has been arrived at between the petitioners and herself at the Delhi Mediation Centre, Rohini District Courts, Delhi and has stated that she has signed both these documents voluntarily of her own accord without any duress or coercion from any quarter. She has further testified to the effect that pursuant to the said settlement, the marriage between the petitioner no. 1 and herself has since been dissolved vide a decree of divorce dated 11.01.2017 of the Court of the Judge Family Court, Rohini, North Delhi in HMA No. 31/17 under Sections 13B(2) of the Hindu Marriage Act, 1955, the certified copy of which is on the record as Ex.CW2/C. She has further testified to the effect that pursuant to the said settlement arrived at between the petitioners and herself, a total sum of Rs.17 lakhs was to be paid to her by the petitioners of which she has already received a sum of Rs.8,50,000/- at the time of recording of the statement in First Motion Petition u/s 13B(1) of the Hindu Marriage Act, 1955 and a sum of 4,50,000/- at the time of recording of statement in Second Motion Petition u/s 13B(2) of the Hindu Marriage Act, 1955 and a balance sum of Rs.4 lakhs has been handed to her by the petitioners vide D.D. No. 960285 dated 17.02.2018 drawn on Union Bank, certified copy of which is on record as Ex.CW2/C. She has further testified to the effect that now there are no claims of hers left against the petitioners in relation to the FIR No. 296/2016, registered at PS Shahbad Dairy, under Sections 498A/406/34 of the Indian Penal Code, 1860 and Section 4 of the D.P. Act nor she does want that the petitioners no. 1 to 5 to be punished and that she has no opposition to the quashing of the FIR No. 296/2016, registered at PS Shahbad Dairy, under Sections 498A/406/34 of

the Indian Penal Code, 1860 and Section 4 of the D.P. Act and all consequential proceedings emanating therefrom. She has also testified to the effect that there is no child of the wedlock between the petitioner no. 1 and herself and she is a graduate and that Mr. Sukhbir Singh has already expired.

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. 296/2016, registered at PS Shahbad Dairy, under Sections 498A/406/34 of the Indian Penal Code, 1860 and Section 4 of the D.P. Act in view of the settlement arrived at between the parties.

On a consideration of the statement made by the respondent no. 2 in view of the settlement arrived at between the petitioners and the respondent no. 2 as also indicated vide Ex.CW2/B on the record dated 19.04.2016 and the factum that the FIR has apparently been registered on the basis of the matrimonial discord between the petitioner no. 1 and the respondent no. 2 which has since been dissolved vide a decree of divorce dated 11.01.2017 of the Court of the Judge Family Court, Rohini, North Delhi in HMA No. 31/17 under Sections 13B(2) of the Hindu Marriage Act, 1955, certified copy of which is on record as Ex.CW2/C and that all claims between the petitioners and the respondent no. 2 have been settled as testified by the respondent no. 2 and that she is a graduate and that she has arrived at the settlement voluntarily of her own accord without any duress or coercion from any quarter, 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. 296/2016, registered at PS Shahbad Dairy, under Sections 498A/406/34 of the Indian Penal Code, 1860 and Section 4 of the D.P. Act and all consequential proceedings emanating therefrom is allowed and thus the FIR No. 296/2016, registered at PS Shahbad Dairy, under Sections 498A/406/34 of the Indian Penal Code, 1860 and Section 4 of the D.P. Act and all consequential proceedings emanating therefrom against the petitioner no. 1 Abhishek s/o Late Sh. Karamvir Singh, the petitioner no. 2 Smt. Hukum Kaur w/o Sh. Sukhbir Singh, the petitioner no. 3 Jagbir s/o Sh. Sukhbir Singh, the petitioner no. 4 Smt. Sunita w/o Sh. Jagbir Singh and the petitioner no. 5 Smt. Preeti d/o Late Sh. Karamvir Singh are quashed.

The petition is disposed of.

ANU MALHOTRA, J

FEBRUARY 19, 2018/MK

I identify the petitioner no. 1 Abhishek s/o Late Sh. Karamvir Singh, the petitioner no. 2 Smt. Hukum Kaur w/o Sh. Sukhbir Singh, the petitioner no. 3 Jagbir s/o Sh. Sukhbir Singh, the petitioner no. 4 Smt. Sunita w/o Sh. Jagbir Singh and the petitioner no. 5 Smt. Preeti d/o Late Sh. Karamvir Singh as being the accused in relation to the FIR No. 296/2016, registered at PS Shahbad Dairy, under Sections 498A/406/34 of the Indian Penal Code, 1860 and Section 4 of the D.P. Act. Apart from the accused persons, who are present in the court, the other accused named in the FIR namely Sukhbir Singh has since expired. On behalf of the petitioner, copy of death certificate dated 06.02.2018 indicating demise of Sukhbir Singh on 21.01.2018 has been filed.

I also identify the respondent no. 2 Rajni w/o Sh. Abhishek present today in the court i.e. the complainant of the FIR No. 296/2016, registered at PS Shahbad Dairy, under Sections 498A/406/34 of the Indian Penal Code, 1860 and Section 4 of the D.P. Act. Photocopies of the proof of identity of the petitioners no. 1 & 5 are on record as Ex. CW1/A to Ex. CW1/E respectively (original seen and returned). Original Election Commission Identity Card of the respondent no. 2 has been produced. Photocopy of the same be placed on record.

ANU MALHOTRA, J

RO & AC

FEBRUARY 19, 2018/MK

Statement of CW2 :Rajni d/o Sh. Kanwar Singh Man, aged 29 years r/o H. No. 2, Village Kherakhurd, Delhi.

ON S.A.

My affidavit annexed to the petition bears my signature thereon at points-A and B on Ex.CW2/A. A settlement Agreement dated 19.04.2016 has been arrived at between me and the petitioners at the Delhi Mediation Centre, Rohini District Courts, Delhi bears my signatures thereon on each page thereof at points-A on Ex.CW2/B. I have signed both these documents voluntarily of my own accord without any duress or coercion from any quarter. Pursuant to the said settlement, the marriage between me and the petitioner no. 1 has since been dissolved vide a decree of divorce dated 11.01.2017 of the Court of the Judge Family Court, Rohini, North Delhi in HMA No. 31/17 under Sections 13B(2) of the Hindu Marriage Act, 1955, the certified copy of which is on the record as Ex.CW2/C. Pursuant to the said settlement arrived at between me and the petitioners, a total sum of Rs.17 lakhs was to be paid to me by the petitioners of which I have already received a sum of Rs.8,50,000/- at the time of recording of the statement in First Motion Petition u/s 13B(1) of the Hindu Marriage Act, 1955 and a sum of 4,50,000/- at the time of recording of statement in Second Motion Petition u/s 13B(2) of the Hindu Marriage Act, 1955 and a balance sum of Rs.4 lakhs has been handed to me by the petitioners vide D.D. No. 960285 dated 17.02.2018 drawn on Union Bank, photocopy of which is on record as Ex.CW2/D. Now there are no claims of mine left against the petitioners in

relation to the FIR No. 296/2016, registered at PS Shahbad Dairy, under Sections 498A/406/34 of the Indian Penal Code, 1860 and Section 4 of the D.P. Act. I do not want that the petitioners no. 1 to 5 to be punished and I have no opposition to the quashing of the FIR No. 296/2016, registered at PS Shahbad Dairy, under Sections 498A/406/34 of the Indian Penal Code, 1860 and Section 4 of the D.P. Act and all consequential proceedings emanating therefrom. There is no child of the wedlock between me and the petitioner no. 1. I am a graduate. I have made this statement voluntarily of my own accord without any duress or coercion from any quarter. Mr. Sukhbir Singh has already expired.

ANU MALHOTRA, J

RO & AC
FEBRUARY 19, 2018/MK