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

+ **CRL.M.C. 944/2018 & CRL.M.A. 3473/2018**

KISHAN & ORS

..... Petitioner

Through: Counsel with petitioners (Appearance
not given).

versus

THE STATE & ORS

..... Respondent

Through: Mr. Izhar Ahmad, APP for State with
SI Surender Singh, PT House
Security previously posted at PS
Mangolpuri.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **23.02.2018**

Vide the present petition the petitioner nos. 1 to 8 seek quashing of the FIR No.2216/15, PS Mangolpuri under Sections 498A/406/34 of the Indian Penal Code, 1860 & Section 4 of the Dowry Prohibition Act, 1961.

The Investigating Officer of the present case is present today and has identified the petitioner no. 1 Mr. Kishan, petitioner no. 2 Smt. Maya @ Kusam, petitioner no. 3 Ram Gopal Das, petitioner no. 4 Ms. Neeru, petitioner no. 5 Rajvansh Gupta, petitioner no. 6 Smt. Rajni Gupta, petitioner no. 7 Smt. Bimla @ Vimlesh and petitioner no. 8 Smt. Rani Verma as being the accused arrayed in FIR No.2216/15, PS Mangolpuri under Sections 498A/406/34 of the

Indian Penal Code, 1860 & Section 4 of Dowry Prohibition Act, 1961 and he has also identified the respondent no. 2, Ms. Ms. Lalita being the complainant of the said FIR present in the Court today. The proof of identity of the petitioner nos. 1 to 8 in the form of photocopies of their Aadhar Cards are on the record as Ex. CW1/A to Ex. CW1/H respectively. The proof of identity of the respondent no. 2 in the form of photocopy of her Aadhar Card is on the record as Ex. CW2/A, originals of which have been seen and returned.

The respondent no. 2 in her testimony on oath by the Court testified to the effect that the marriage between her and the petitioner no. 1 has since been dissolved by a decree of divorce dated 26.10.2017 in HMA No. 1267/17 of the Court of the Principal Judge, Family Courts, North District, Delhi, certified copy of the same is on the record as Ex. CW2/B. She further testified to having sworn her affidavit on Ex. CW2/D annexed to the petition which she has signed voluntarily of her own accord without any duress or coercion from any quarter. She further stated that a settlement was arrived at between her and the petitioners at Counselling Cell at the Family courts, North which bears her signatures at point A on Ex. CW2/E and pursuant to which a sum of Rs. 3,00,000/- was to be paid to her by the petitioners, out of which a sum of Rs. 2,50,000/- has already been received by her previously and a balance sum of Rs. 50,000/- handed over to her today by the petitioners vide a demand draft bearing No. 063334 dated 17.02.2018, photocopy of the same is on the record as Ex. CW2/C. She further stated that there are now no claims of hers

left against the petitioners.

She further submits that she does not want the petitioners to be punished and she has no opposition to the quashing of the FIR No. 2216/15, PS Mangolpuri under Sections 498A/406/34 of the Indian Penal Code, 1860 & Section 4 of Dowry Prohibition Act, 1961 and all consequential proceedings emanating therefrom in view of the settlement arrived at between the parties. She stated further that she has studied till standard 12th. She also stated that she does not oppose the prayer made by the petitioners seeking quashing of the FIR in question nor does she want them to be punished in relation thereto. She has also stated that she has made her statement voluntarily of her own accord without any duress, pressure or coercion from any quarter.

On behalf of the State also, there is no opposition to the prayer made by the petitioners seeking quashing of the FIR in question in view of the settlement arrived at between the parties 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.

Penal Code, 1860 & Section 4 of Dowry Prohibition Act, 1961 and all consequential proceedings emanating therefrom is allowed and thus the FIR No. 2216/15, PS Mangolpuri under Sections 498A/406/34 of the Indian Penal Code, 1860 & Section 4 of Dowry Prohibition Act, 1961 and all consequential proceedings emanating therefrom against the petitioner no. 1 Mr. Kishan, petitioner no. 2 Smt. Maya @ Kusam, petitioner no. 3 Ram Gopal Das, petitioner no. 4 Ms. Neeru, petitioner no. 5 Rajvansh Gupta, petitioner no. 6 Smt. Rajni Gupta, petitioner no. 7 Smt. Bimla @ Vimlesh and petitioner no. 8 Smt. Rani Verma are quashed.

The petition is disposed of.

ANU MALHOTRA, J

FEBRUARY 23, 2018
NC

Item No. 40

CRL.M.C.944/2017

KISHAN & ORS. Vs. STATE & ORS.

**CW-1 SI SURENDER SINGH, PREVIOUSLY POSTED AT POLICE
STATION MANGOLPURI.**

ON S.A.

I identify the petitioner no. 1 Mr.Kishan, petitioner no. 2 Smt. Maya @ Kusam, petitioner no. 3 Ram Gopal Das, petitioner no. 4 Ms. Neeru, petitioner no. 5 Rajvansh Gupta, petitioner no. 6 Smt. Rajni Gupta, petitioner no. 7 Smt. Bimla @ Vimlesh and petitioner no. 8 Smt. Rani Verma as being the accused arrayed in FIR No.2216/15, PS Mangolpuri under Sections 498A/406/34 of the Indian Penal Code, 1860 & Section 4 of Dowry Prohibition Act, 1961 and I also identify the respondent no. 2, Ms. Ms. Lalita being the complainant of the said FIR present in the Court today. The proof of identity of the petitioner nos. 1 to 8 in the form of photocopies of their Aadhar Cards are on the record as Ex. CW1/A to Ex. CW1/H respectively. The proof of identity of the respondent no. 2 in the form of photocopy of her Aadhar Card is on the record as Ex. CW2/A. (Originals seen and returned).

**RO & AC
FEBRUARY 23, 2018.**

ANU MALHOTRA, J

Item No. 40

CRL.M.C.944/2017

KISHAN & ORS. Vs. STATE & ORS.

Statement of CW2 : Ms. Lalita, d/o Shri Nathi Lal, aged 26 years, r/o H. No. S-1176, Mangolpuri..

ON S.A.

I have brought my original Aadhar Card, photocopy of which is on the record as Ex. CW2/A. The marriage between me and the petitioner has since been dissolved by a decree of divorce dated 26.10.2017 in HMA No. 1267/17 of the Court of the Principal Judge, Family Courts, North District, Delhi, certified copy of which is on the record as Ex. CW2/B.

My affidavit annexed to the petition bears my signatures on Ex. CW2/D. A settlement was arrived at between me and the petitioners at Counselling Cell at the Family courts, North bears my signatures at point A on Ex. CW2/E and pursuant to which a sum of Rs. 3,00,000/- was to be paid to me by the petitioners, out of which a sum of Rs. 2,50,000/- has already received by me previously and a balance sum of Rs. 50,000/- has handed over to me today by the petitioners vide a demand draft bearing No. 063334 dated 17.02.2018, photocopy of which is on the record as Ex. CW2/C. There are now no claims of mine left against the petitioners.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR in question nor do I want them to be punished in relation thereto.

I have studied upto Standard 12th. 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 23, 2018