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

+ **CRL.M.C. 920/2018 & CRL.M.A. 3395/2018**

ARUN KAPOOR

..... Petitioner

Through Mr. Sandeep Kumar, Adv. with
petitioner in person.

versus

STATE (GOVT OF NCT OF DELHI) & ANR Respondent

Through Mr. Sanjeev Sabharwal, APP for State
with SI Jitender, PS Model Town.
R2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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23.04.2018

Vide the present petition, the petitioner Arun Kapoor s/o Late Sh. Ram Lubhaya Kapoor seeks quashing of FIR No. 318/02, PS Model Town, under Sections 498A/406 of the Indian Penal Code, 1860 submitting to the effect that a settlement has since been arrived at between the parties and all disputes between them have been amicably settled.

The Investigating Officer has identified the petitioner as being the accused of the said FIR and the respondent no. 2 present today in the court i.e. the complainant of the said FIR. The proof of the identity of the petitioners and of the respondent no. 2 in the form of photocopies of their Aadhar Cards produced by them are Ex.CW1/A to Ex. CW1/D respectively, original of which have been seen and returned.

On behalf of the petitioner, it has been submitted that the proceedings
CRL.M.C. 920/2018

page 1 of 5

against the accused persons namely R.L. Kapoor, Vijay Kumar and Ramesh have already abated vide order dated 29.07.2017 of the Court of MM (Mahila Court), NW, Delhi and the accused persons namely Shravan Kapoor, Saroj Kapoor, Vandana Bajaj and Abhishek have already been discharged vide the said order dated 29.07.2017, which is not refuted on behalf of the State.

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 submits that she is living with the petitioner for the last 6-7 years without any problems and that she does not oppose the prayer made by the petitioner seeking quashing of the FIR No. 318/02, PS Model Town, under Sections 498A/406 of the Indian Penal Code, 1860 nor does she want the petitioner or any other accused persons to be punished in relation thereto.

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 settlement arrived at between the parties.

As the FIR No. 86/16, registered at PS Sangam Vihar, under Section 498A/406/494/506/34 of the Indian Penal Code, 1860 is apparently registered on the basis of a matrimonial discord between the petitioner and the respondent no. 2, which has since been resolved by the petitioner and the respondent no. 2 and they are living together for the last 6-7 years as testified by the respondent no. 2 and for maintenance of peace and harmony between the parties, it is considered essential to put *a quietus* to the litigation

in view of the observations in the verdict of the Hon'ble Supreme Court 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)

it is considered appropriate to allow the prayer made by the petitioner seeking quashing of FIR No. 318/02, PS Model Town, under Sections 498A/406 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner. In view thereof the FIR No. 318/02, PS Model Town, under Sections 498A/406 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner Arun Kapoor s/o Late Sh. Ram Lubhaya Kapoor are quashed.

The petition is disposed of.

ANU MALHOTRA, J

APRIL 23, 2018/MK

19

CRL.M.C. 920/2018

ARUN KAPOOR versus

STATE (GOVT OF NCT OF DELHI) & ANR

Statement of CW1 : SI Jitender, PS Model Town, Delhi.

ON S.A.

I have been deputed to attend the proceedings in relation the present FIR No. 318/02, PS Model Town, under Sections 498A/406 of the Indian Penal Code, 1860. I identify the petitioner Arun Kapoor s/o Late Sh. Ram Lubhaya Kapoor as being the accused in relation to the FIR No. 318/02, registered at PS Model Town, under Sections 498A/406 of the Indian Penal Code, 1860. The proceedings against the accused persons namely R.L. Kapoor, Vijay Kumar and Ramesh have already been abated vide order dated 29.07.2017 of the Court of MM (Mahila Court), NW, Delhi and the accused persons namely Shravan Kapoor, Saroj Kapoor, Vandana Bajaj and Abhishek have already been discharged vide the said order dated 29.07.2017. The proof of the identity of the petitioner and of the respondent no. 2 in the form of photocopies of Aadhar Cards produced by them are Ex.CW1/A and Ex. CW1/B respectively (originals seen and returned).

RO & AC

APRIL 23, 2018/MK

ANU MALHOTRA, J

19

CRL.M.C. 920/2018

ARUN KAPOOR versus

STATE (GOVT OF NCT OF DELHI) & ANR

Statement of CW2 : Madhu Kapoor w/o Sh. Arun Kapoor d/o Sh. L.R. Kalra, aged 55 years r/o C-22, 3rd Floor, Acharya Kripalani Road, Adarsh Nagar, N.S. Mandi, Model Town, Delhi.

ON S.A.

I do not oppose the prayer made by the petitioner seeking quashing of the FIR No. 318/02, registered at PS Model Town, under Sections 498A/406 of the Indian Penal Code, 1860 nor I want the petitioner to be punished in relation thereto. Other three accused persons namely R.L. Kapoor, Vijay Kumar and Ramesh have expired and the proceedings against them have already been abated vide order dated 29.07.2017 of the Court of MM (Mahila Court), NW, Delhi and the accused persons namely Shravan Kapoor, Saroj Kapoor, Vandana Bajaj and Abhishek have already been discharged vide the said order dated 29.07.2017 nor I do want any proceedings in relation to other accused, who have already been discharged. My affidavit annexed to the petition bears my signatures thereon at points-A and B on Ex.CW2/A. There are now no problems between me and the petitioners nor from any other accused person. I am a graduate and I am giving coaching classes. I have made this statement voluntarily of my own accord without any duress, pressure or coercion from any quarter.

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

ANU MALHOTRA, J