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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1061/2018**

SUNNY KUMAR TUTEJA & ORS Petitioner
Through: Mr. Sameer Khan, Adv.

versus

STATE (GOVT OF NCT OF DELHI) & ANR Respondent
Through: Mr. Sanjeev Sabharwal, APP for State
with W/ASI Sukhda, PS Uttam
Nagar.
Mr. Jai Kumar Sharma, Adv. for R-2
with R-2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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28.02.2018

Vide the present petition, the petitioner seeks quashing of FIR No.180/2015, registered at PS Uttam Nagar, 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, pursuant to the same the petitioner no.1 and the respondent no.2 are living together amicably.

The Investigating Officer of the case present today in Court has identified the petitioner no. 1 Shri Sunny Kr. Tuteja, s/o Shri Om Prakash, petitioner no.2 Shri Om Prakash, s/o late Shri Dharm Chand, petitioner no.3 Smt. Asha Rani, w/o Shri Om Prakash, petitioner no.4 Shri Deepak Kumar, s/o Shri Om Prakash and the petitioner no.5 Smt. Jiya, w/o Shri Deepak Kumar as being the five accused arrayed in FIR No.180/2015, registered at PS Uttam Nagar, under Sections 498A/406/34 Indian Penal Code, 1860 and

has also identified the respondent no.2 Ms. Neha 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 their Aadhar Cards are on the record as Ex. CW1/A and Ex. CW1/F respectively. (Originals 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 05.12.2017 arrived at the Counselling Cell, Family Courts, Dwarka Court in reconciliation proceedings, copy of which is on the record as Ex. CW2/B voluntarily of her own accord without any duress or coercion from any quarter and also testified to the effect that pursuant to the said settlement arrived at between her and the petitioners, she is living separately with the petitioner no.1 w.e.f. 01.12.2017 without any problems now and thus she does not oppose the prayer made by the petitioners seeking quashing of the FIR No.180/2015, registered at PS Uttam Nagar, under Sections 498A/406/34 Indian Penal Code, 1860 in view of the settlement arrived at between her and the petitioners nor does she want the petitioners 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 deposition of the respondent no.2, there being no reason to disbelieve her statement that she has made her statement voluntarily and has arrived at a settlement with the petitioners voluntarily of her own accord without any duress, coercion or pressure from any quarter

and as the respondent no.2 is living with the petitioner no.1 amicably without any problems, for maintenance of peace and harmony between the petitioner and the respondent no.2 and for the well-being of the respondent no.2, it is considered appropriate to put a quietus to the litigation between the petitioners and the respondent no.2 inasmuch as the matrimonial discord between the petitioner no.1 and the respondent no.2 having been resolved vide a settlement arrived at 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)

In view thereof FIR No.180/2015, registered at PS Uttam Nagar, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners are thus quashed.

Copy of the order be given *Dasti*, as prayed.

ANU MALHOTRA, J

FEBRUARY 28, 2018

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CRL.M.C. 1061/2018

SUNNY KUMAR TUTEJA & ORS

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

Statement of CW1 : SI Sukhda, PS Uttam Nagar, Delhi.

ON S.A.

I identify the petitioner no. 1 Shri Sunny Kr. Tuteja, s/o Shri Om Prakash, petitioner no.2 Shri Om Prakash, s/o late Shri Dharm Chand, petitioner no.3 Smt. Asha Rani, w/o Shri Om Prakash, petitioner no.4 Shri Deepak Kumar, s/o Shri Om Prakash and the petitioner no.5 Smt. Jiya, w/o Shri Deepak Kumar as being the five accused arrayed in FIR No.180/2015, registered at PS Uttam Nagar, under Sections 498A/406/34 Indian Penal Code, 1860. I also identify the respondent no.2 Ms. Neha 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 their Aadhar Cards are on the record as Ex. CW1/A and Ex. CW1/F respectively. (Originals seen and returned.)

ANU MALHOTRA, J

RO & AC

FEBRUARY 28, 2018

Statement of CW2 : Smt. Neha @ Sneha, d/o Shri Satish Arora, aged 30 years, r/o H. No. S-74, Upper Ground Floor, Mohan Garden, Uttam Nagar, New Delhi.

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 05.12.2017 bears my signature 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. Since 01.12.2017 I have been living separately with the petitioner no.1, my spouse and I have no problems now and thus I do not oppose the prayer made by the petitioner no. 1 Shri Sunny Kr. Tuteja, s/o Shri Om Prakash, petitioner no.2 Shri Om Prakash, s/o late Shri Dharm Chand, petitioner no.3 Smt. Asha Rani, w/o Shri Om Prakash, petitioner no.4 Shri Deepak Kumar, s/o Shri Om Prakash and the petitioner no.5 Smt. Jiya, w/o Shri Deepak Kumar seeking quashing of the FIR No.180/2015, registered at PS Uttam Nagar, under Sections 498A/406/34 Indian Penal Code, 1860 in view of the settlement arrived at between me and the petitioners nor do I want the petitioners 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 28, 2018