

\$~47

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

+ **CRL.M.C. 961/2018 & CRL.M.A. 3522/2018**

ROUNAK & ORS

..... Petitioner

Through Mr. Satish Kr. Malik, Mr. Yatender
Khatri, Advs. with petitioners in
person.

versus

STATE (NCT OF DELHI) & ANR

..... Respondent

Through Mr. Izhar Ahmad, APP for State with
W/ASI Usha Devi PS Mundka.
Mr. Kamaldeep Lakra, Adv. for R2
with R2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

%

23.02.2018

Vide the present petition, the petitioner no. 1 Raunak s/o Sh. Lokesh Singh, the petitioner no. 2 Smt. Laxmi s/o Sh. Lokesh Singh, Ms. Preeti d/o Sh. Tej Karan, the petitioner no. 4 Virender s/o Sh. Mahender, the petitioner no. 5 Pushpender s/o Sh. Virender and the petitioner no. 6 Smt. Santosh w/o Sh. Virender seek quashing of the FIR No. 310/2015, registered at PS Mundka, under Sections 498A/406/34 of the Indian Penal Code, 1860 submitting *inter alia* to the effect that a settlement has been arrived at between the parties and all the disputes between them have been amicably settled.

The Investigating Officer of the case has identified the petitioner no. 1 Raunak s/o Sh. Lokesh Singh, the petitioner no. 2 Smt. Laxmi s/o Sh. Lokesh Singh, Ms. Preeti d/o Sh. Tej Karan, the petitioner no. 4 Virender s/o Sh. Mahender, the petitioner no. 5 Pushpender s/o Sh. Virender and the

CRL.M.C. 961/2018

page 1 of 7

petitioner no. 6 Smt. Santosh w/o Sh. Virender as being the accused in relation to the FIR No. 310/2015, registered at PS Mundka, under Sections 498A/406/34 of the Indian Penal Code, 1860. He has also identified the respondent no. 2 Smt. Nishtha w/o Sh. Raunak present today in the court i.e. the complainant of the FIR No. 310/2015, registered at PS Mundka, under Sections 498A/406/34 of the Indian Penal Code, 1860. Photocopies of the proof of identities of the petitioners no. 1 to 6 and of the respondent no. 2 are Ex. CW1/A to Ex. CW1/G 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 which she has signed voluntarily of her own accord without any duress or coercion from any quarter and has also testified to having signed the settlement arrived at between the parties and pursuant to which the marriage between her and the petitioner no. 1 has since been dissolved vide a decree of divorce through mutual consent dated 30.03.2017 of the Court of the Principal Judge Family Court, West, Tis Hazari Courts, Delhi in HMA No. 37/17 under Sections 13B(2) of the Hindu Marriage Act, 1955, the certified copy of which is on the record as Ex.CW2/B. She has further testified to the effect that pursuant to the settlement arrived at between her and the petitioners vide settlement dated 08.06.2016 arrived at between the parties in the Court of MM (Mahila Court)-01, West, THC, Delhi, certified copy of which is on record as Ex.CW2/C, a total sum of Rs.5,75,000/- was to be paid to her by the petitioners of which she has received a sum of Rs.1.5 lakhs

CRL.M.C. 961/2018

page 2 of 7

initially and subsequently received a sum of Rs.2 lakhs at the time of

recording of the statement under Sections 13B(2) of the Hindu Marriage Act, 1955 and a sum of Rs.2.25 lakhs has since been handed over to her by the petitioners vide D.D. No. 000975 dated 22.02.2018 drawn on Axis Bank, photocopy of which is on record as Ex.CW2/D. Now there are no claims of hers left against the petitioners in view of the settlement arrived at between her and the petitioners and that the minor child born out of the wedlock is in the custody of the petitioner no. 1 and she has visitation rights qua the child. *Inter alia* the respondent no. 2 has testified to the effect that in terms of the settlement arrived at between the parties, she does not want the petitioners no. 1 to 6 to be punished and she has no opposition to the quashing of the FIR No. 310/2015, registered at PS Mundka, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom. The respondent no. 2 submits that she is pursuing a Nursing Course.

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. 310/2015, registered at PS Mundka, under Sections 498A/406/34 of the Indian Penal Code, 1860 in view of the settlement arrived at between the parties.

In view of the deposition of the respondent no. 2, identification of the petitioners and the complainant by the Investigating Officer and taking into account the non-opposition on behalf of the State and the testimony of the respondent no. 2, there appears no reason to disbelieve the statements made by the respondent no. 2 voluntarily of her own accord without any duress or

coercion from any quarter 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 through mutual consent dated 30.03.2017 of the Court of the Principal Judge Family Court, West, Tis Hazari Courts, Delhi in HMA No. 37/17 under Sections 13B(2) of the Hindu Marriage Act, 1955 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***

CRL.M.C. 961/2018

page 4 of 7

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. They 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. 310/2015, registered at PS Mundka, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom is allowed and thus the FIR No. 310/2015, registered at PS Mundka, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioner no. 1 Raunak s/o Sh. Lokesh Singh, the petitioner no. 2 Smt. Laxmi s/o Sh. Lokesh Singh, Ms. Preeti d/o Sh. Tej Karan, the petitioner no. 4 Virender s/o Sh. Mahender, the

CRL.M.C. 961/2018

petitioner no. 5 Pushpender s/o Sh. Virender and the petitioner no. 6 Smt. Santosh w/o Sh. Virender are quashed.

page 6 of 7

The petition is disposed of.

FEBRUARY 23, 2018/MK

ANU MALHOTRA, J

CRL.M.C. 961/2018

page 7 of 7

47

CRL.M.C. 961/2018 & CRL.M.A. 3522/2018

ROUNAK & ORS versus STATE (NCT OF DELHI) & ANR

Statement of CW1 : W/ASI Usha Devi PS Mundka, Delhi.

ON S.A.

I identify the petitioner no. 1 Raunak s/o Sh. Lokesh Singh, the petitioner no. 2 Smt. Laxmi s/o Sh. Lokesh Singh, Ms. Preeti d/o Sh. Tej Karan, the petitioner no. 4 Virender s/o Sh. Mahender, the petitioner no. 5 Pushpender s/o Sh. Virender and the petitioner no. 6 Smt. Santosh w/o Sh. Virender as being the accused in relation to the FIR No. 310/2015, registered at PS Mundka, under Sections 498A/406/34 of the Indian Penal Code, 1860. I also identify the respondent no. 2 Smt. Nishtha w/o Sh. Raunak present today in the court i.e. the complainant of the FIR No. 310/2015, registered at PS Mundka, under Sections 498A/406/34 of the Indian Penal Code, 1860. Photocopies of the proof of identities of the petitioners no. 1 to 6 and of the respondent no. 2 are Ex. CW1/A to Ex. CW1/G respectively (original seen and returned).

ANU MALHOTRA, J

RO & AC

FEBRUARY 23, 2018/MK

**Statement of CW2 : Smt. Nishtha d/o Sh. Jai Bhagwan, aged 26 years
r/o H. No. 318, VPO, Mundka, Delhi.**

ON S.A.

My affidavit annexed to the petition bears my signature thereon at points-A and B on Ex.CW2/A, which I have signed voluntarily of my own accord without any duress or coercion from any quarter. A settlement has been arrived at between me and the petitioner pursuant to which the marriage between her and the petitioner no. 1 has since been dissolved vide a decree of divorce through mutual consent dated 30.03.2017 of the Court of the Principal Judge Family Court, West, Tis Hazari Courts, Delhi in HMA No. 37/17 under Sections 13B(2) of the Hindu Marriage Act, 1955, the certified copy of which is on the record as Ex.CW2/B. Pursuant to the settlement arrived at between me and the petitioners as indicated vide my settlement dated 08.06.2016 arrived at in the Court of MM (Mahila Court)-01, West, THC, Delhi, certified copy of which is on record as Ex.CW2/C, a total sum of Rs.5,75,000/- was to be paid to me by the petitioners of which I have received a sum of Rs.1.5 lakhs initially and subsequently received a sum of Rs.2 lakhs at the time of recording of the statement under Sections 13B(2) of the Hindu Marriage Act, 1955 and a sum of Rs.2.25 lakhs is to be received by me today, which I have since been handed over to me by the petitioners vide D.D. No. 000975 dated 22.02.2018 drawn on Axis Bank, photocopy of which is on record as Ex.CW2/D. Now there are no claims of mine left against the petitioners in view of the settlement arrived at between me and the petitioners. The minor child born out of the wedlock is in the

custody of the petitioner no. 1 and I have visitation rights qua the child. I do not want that the petitioners no. 1 to 6 to be punished and I have no opposition to the quashing of the FIR No. 310/2015, registered at PS Mundka, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom. I am pursuing a Nursing Course. I have made this statement voluntarily of my own accord without any duress or coercion from any quarter.

ANU MALHOTRA, J

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