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

+ **CRL.M.C. 1029/2018**

HARBIR SHARMA @ HARVIR SHARMA Petitioner

Through: Mr. Rahul K. Dubey, Advocate

versus

THE STATE & ANR Respondents

Through: Mr. Kamal Kr. Ghei, APP
SI C.L. Meena, P.S. Pul Prahlad Pur
Respondent No.2 in person

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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27.02.2018

Crl.M.A. No. 3744/2018 (Exemption)

This is an application filed on behalf of the petitioner for exemption from filing certified copies of the annexures.

Exemption allowed, subject to just exceptions.

CRL.M.C. 1029/2018 & CRL.M.A.3745/2018 (stay)

The present petition seeks quashing of the FIR No.349/2013 P.S. Pul Prahlad Pur submitting to effect that a settlement has been arrived at between petitioner and respondent No.2 and that the parties are living without any problem. It has also been averred by the petitioner that a settlement has been arrived at between the petitioner along with his brothers, namely, Manoj Sharma and Subhash Sharma and mother Kamla Sharma and respondent No.2 on 08.10.2016.

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 of her own accord without any duress, coercion or pressure from any quarter and that the petitioner and the respondent no.2 are living together w.e.f. 12.10.2016 and taking into account the non-opposition on behalf of the State and the mediation settlement dated 08.10.2016 arrived at between the petitioner and the respondent no.2, copy of which is on the record as Ex. CW2/B, it is apparent that the matrimonial discord between the petitioner and the respondent no.2 has since been resolved, and thus 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)

for maintenance of peace and harmony between the petitioner and the respondent no.2, it is considered appropriate to allow the prayer made by the petitioner seeking quashing of FIR No.349/2013, registered at PS Pul Prahlad Pur, under Sections 498A/406 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner.

In view thereof the FIR No.349/2013, registered at PS Pul Prahlad Pur, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner Mr. Habbir Sharma and against all the persons named in the subject FIR are quashed.

ANU MALHOTRA, J

FEBRUARY 27, 2018

ns

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Statement of CW1 : SI C.L. Meena, P.S. Pul Prahlad Pur, Delhi.

On S.A.

On the basis of the proof of identity of the petitioner and respondent No.2 in the form of Aadhar Card of the petitioner and the Election Commission of India Identity Card of respondent No.2 photocopy of which are exhibited as Ex.CW1/A and Ex.CW1/B respectively. I identify the petitioner and respondent No.2 as being accused and the complainant in the FIR No.349/2013 registered under Sections 498A/406/34 of the Indian Penal Code, 1860 registered at P.S. Pul Prahlad Pur, Delhi.

ANU MALHOTRA, J

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CRL.M.C. 1029/2018

HARBIR SHARMA @ HARVIR SHARMA

Vs. STATE & ANR.

Statement of CW2 : Smt. Sheetal Sharma, W/o Shri Harbir Sharma, aged 38 years, r/o RZ-65, Gali No.-10, Tughlakabad Extn., Delhi-110019.

ON S.A.

I have been living together with the petitioner since 12.10.2016 along with my in-laws and my three daughters. There are no more problems between me and the petitioner and other family members. Thus, I do not seek any prosecution of the petitioner and other family members namely Shri Baldaan Sharma, father-in-law; Smt. Kamla, mother-in-law and Shri Manoj, brother-in-law in relation to FIR No.349/2013 registered at P.S. Pul Prahlad Pur and I do not want to punish them.

I have studied upto 12th standard and work in a store.

My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/A. The mediation settlement dated 08.10.2016 arrived at Mediation Centre, Saket Courts New Delhi 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.

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 27, 2018/ns