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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 1153/2018
SUNDER SINGH & ORS Petitioner
Through: Mr. Rakesh Gupta, Adv.

versus

THE STATE & ANR Respondent
Through: Mr. Ashish Dutta, APP for State with
ASI Ved Prakash, PS Adarsh Nagar.
Mr. S.S. Yadav, Adv. for R-2 with R-2.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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06.03.2018

Vide the present petition, the petitioner seeks quashing of FIR No.10/2008, registered at PS Adarsh 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 and the petitioner no.1 and the respondent no.2 are since living together now and there are two children born of the wedlock between the petitioner no.1 and the respondent no.2 even after the registration of the FIR in question.

The Investigating Officer of the case present today in Court has identified the petitioner no. 1 Shri Sunder Singh, s/o Shri Dharam Singh, petitioner no.2 Smt. Nirmal Devi, w/o Shri Suresh Rana, petitioner no.3 Smt. Bimla Devi, w/o Shri Dharam Singh, petitioner no.4 Shri Dharam Singh, s/o Shri Daryao Singh as being the accused arrayed in FIR No.10/2008, registered at PS Adarsh Nagar, under Sections 498A/406/34

Indian Penal Code, 1860 and has also identified the respondent no.2 Smt. Kavita, w/o Shri Sunder Singh present today in Court as being the complainant thereof and has stated that the other accused persons i.e. Shri Suresh, Shri Satish and Smt. Anguri Devi, have already been discharged vide order dated 29.03.2011 of the Court of the MM (Mahila Court), North-West, Rohini Delhi in FIR No. 10/2008, PS Adarsh Nagar. The proofs of identity of the petitioner nos. 1 to 3 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/D 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 the effect that she is living iwth the petitioner no.1 and her parents-in-law peacefully and happily for the last 4-5 years and that there are three children born of the wedlock between her and the petitioner no.1, one aged 11 years, one aged 2½ years and one aged 2 months and further states that the children aged 2 ½ years and 2 months were born after the registration of the FIR. She has further testified to the effect that she has studied upto standard 10th and is a house wife.

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 testimony of the respondent no.2, there is no reason to disbelieve the statement made by the respondent no.2 that she is living peacefully with the petitioners and that she does not oppose the prayer made by the petitioners seeking quashing of FIR in question and taking into account the non-opposition on behalf of the State, 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 petitioners and the respondent no.2, FIR No.10/2008, registered at PS Adarsh Nagar, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners are thus quashed.

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CRL.M.C. 1153/2018

SUNDER SINGH & ORS

Vs. THE STATE & ANR

Statement of CW1 : ASI Ved Prakash, PS Adarsh Nagar, Delhi.

ON S.A.

I identify the petitioner no. 1 Shri Sunder Singh, s/o Shri Dharam Singh, petitioner no.2 Smt. Nirmal Devi, w/o Shri Suresh Rana, petitioner no.3 Smt. Bimla Devi, w/o Shri Dharam Singh, petitioner no.4 Shri Dharam Singh, s/o Shri Daryao Singh as being the accused arrayed in FIR No.10/2008, registered at PS Adarsh Nagar, under Sections 498A/406/34 Indian Penal Code, 1860. I also identify the respondent no.2 Smt. Kavita, w/o Shri Sunder Singh present today in Court as being the complainant thereof. The other accused persons i.e. Shri Suresh, Shri Satish and Smt. Anguri Devi, have already been discharged vide order dated 29.03.2011 of the Court of the MM (Mahila Court), North-West, Rohini Delhi in FIR No. 10/2008, PS Adarsh Nagar. The proofs of identity of the petitioner nos. 1 to 3 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/D respectively. The copy of Election Commission I-Card of the petitioner no.4 is on the record. (Originals seen and returned.)

The petitioner no.4 has produced his original Aadhar Card bearing no. 5593 1984 8597, copy of which be placed on record.

ANU MALHOTRA, J

RO & AC

MARCH 06, 2018

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CRL.M.C. 1153/2018

SUNDER SINGH & ORS

Vs. THE STATE & ANR

Statement of CW2 : Smt. Kavita, w/o Shri Sunder Singh, d/o Shri Mahender Singh, aged 32 years, H. No. 59, village Bharola, Delh-33 is my father's address and presently I live at Gali No. 12, Radha Vihar Colony, Mukund Pur, Delhi with my spouse, petitioner no.1, my parents-in-law i.e. petitioner nos. 3 & 4 and with my children.

ON S.A.

An FIR has been got registered by me about 7/8 years back against my in-laws and my spouse in view of a querral taken place, at PS Adarsh Nagar. I am living with my spouse, petitioner no.1 for the last 4/5 years and there are now no problems between me and the petitioners and I am living happily in my family with the petitioners and I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.10/2008, registered at PS Adarsh Nagar, under Sections 498A/406/34 Indian Penal Code, 1860. I have three children born of the wedlock between me and the petitioner no.1, one aged 11 years, one aged 2½ years and one aged 2 months. The children aged 2 ½ years and 2 months were born after the registration of the FIR and after the petitioner no.1 and myself are living together.

My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/A My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/A, which I have signed voluntarily of my own accord without any duress, pressure or coercion from any quarter.

I have studied upto standard 10th and I am a house wife.

I have made this statement voluntarily of my own accord without any duress, pressure or coercion from any quarter.

RO & AC
MARCH 06, 2018

ANU MALHOTRA, J