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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1066/2018**

NAYANT AHUJA & ORS Petitioner
Through: Mr. Maninder Singh, Adv.

versus

THE STATE GOVT OF NCT OF DELHI & ORS. Respondent
Through: Mr. Izhar Ahmad, APP for State with
SI Pankaj, PS Kirti Nagar.
Ms. Kaushal Chuahan, Adv. for R-2
with R-2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

28.02.2018

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The petitioner nos. 3, 4 & 5 are not present today and are represented through SPA i.e. the petitioner no.3 Smt. Raj Kumari Ahuja has executed her SPA in favour of petitioner no.2, the petitioner no.4 Shri Pathik Ahuja has executed his SPA in favour of his father i.e. the petitioner no.2, the petitioner no.5 Mrs. Shalu Ahuja, wife of the petitioner no.4 Shri Pathik Ahuja through her SPA executed in favour of Shri Nayant Ahuja i.e. petitioner no.1. The original SPAs have been produced, photocopies of which are on the record as Ex. CW1/C to CW1/E. (Originals seen and returned.)

Vide the present petition, the petitioners seek quashing of FIR No. 279/2016, PS Kirti Nagar, under Sections 498A/406 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom submitting to the effect that the petitioner and the respondent no.2 have arrived at a settlement.

The Investigating Officer of the case present today in Court has identified the petitioner no. 1 Shri Nayant Ahuja, s/o Shri Subhash Ahuja, petitioner no.2 Shri Subhash Ahuja, s/o Shri Chunni Lal present today in Court and has also identified the respondent no.3 Ms. Tina Bajaj present today in Court as being the complainant of the FIR No. 279/2016, PS Kirti Nagar, under Sections 498A/406 Indian Penal Code, 1860. The petitioner no.1 has produced his Aadhar Card, copy of which be placed on record. Copy of the Aadhar Card of the petitioner no.2 is on the record as Ex. CW1/A. Copy of the Election Commission I-Card of the respondent no.3 is on the record as Ex. CW1/B. (Originals seen and returned.)

The respondent no.3 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 testified to having entered into a settlement with the petitioner nos. 1 to 5 and has testified to having executed the Memorandum of Understanding dated 05.09.2017, copy of which is on the record as Ex. CW2/B voluntarily of her own accord without any duress or coercion from any quarter. The respondent no.3 has further testified to the effect that the marriage between her and the petitioner no.1 has been dissolved vide a decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 26.09.2016 of the Court of the District Judge, Family Court, Gurgaon, copy of which is on the record as Ex. CW2/C. She has further testified to the effect that pursuant to the settlement arrived at between her and the petitioners, she has withdrawn the appeal filed by her against the decree of divorce dated 26.09.2016 in FAO No. 6456/2016 on 29.11.2017 in the High Court of Punjab and Haryana, copy of which proceedings dated 29.11.2017 is Ex. CW2/D.

Inter alia the respondent no.3 has further testified to the effect that as per the settlement arrived at between her and the petitioners, a sum of Rs. 45 lakh was to be paid to her by the petitioners, of which a sum of Rs. 22.50 lakh has been received by her previously and the balance sum of Rs. 22.50 lakh has been handed over to her by the petitioner today in Court in the form of a Demand Draft No. 723070 dated 16.02.2018 in her favour drawn on Kotak Mahindra Bank, copy of which is on the record as Ex. CW2/E and that there are no claims of hers left against the petitioners now. She has further testified to the effect that there is no child born of the wedlock between her and the petitioner no.1. She has further testified to the effect that she does not oppose the prayer made by the petitioners seeking quashing of the FIR in question in view of the settlement arrived at between her and the petitioners nor does she want the petitioners to be punished in relation thereto and that she is a graduate.

Learned APP for the State submits that in view of the settlement arrived at between the petitioners and the respondent no.3, 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.3, there being no reason to disbelieve her statement that she has arrived at a settlement with the petitioners voluntarily of her own accord without any duress, coercion or pressure from any quarter and the factum of the settlement being also borne out from the appeal filed by her against the decree of divorce dated 26.09.2016 in FAO No. 6456/2016 on 29.11.2017 in the High Court of Punjab and Haryana and as all claims between the petitioners and the respondent no.3 have since been settled, the matrimonial discord between

the petitioner no.1 and the respondent no.3 having also been resolved, it is considered appropriate to put a quietus to the litigation between the petitioners and the respondent no.3, 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.3, it is considered appropriate to allow the prayer made by

the petitioners seeking quashing of FIR No. 279/2016, PS Kirti Nagar, under Sections 498A/406 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners.

In view thereof the FIR No. 279/2016, PS Kirti Nagar, under Sections 498A/406 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners are thus quashed.

ANU MALHOTRA, J

FEBRUARY 28, 2018

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Statement of CW1 : SI Pankaj, PS Kirti Nagar, Delhi.**ON S.A.**

I identify the petitioner no. 1 Shri Nayant Ahuja, s/o Shri Subhash Ahuja, petitioner no.2 Shri Subhash Ahuja, s/o Shri Chunni Lal present today in Court. The petitioner no.3 Shri Raj Kumari Ahuja is the wife of the petitioner no.2 and the petitioner no.4 is the son of the petitioner no.2 and the petitioner no.5 is the wife of the petitioner no.4. The petitioner nos. 3, 4 & 5 are not present in person. I also identify the respondent no.3 Ms. Tina Bajaj present today in Court as being the complainant of the FIR No. 279/2016, PS Kirti Nagar, under Sections 498/406 Indian Penal Code, 1860. The petitioner no.1 has produced his Aadhar Card, copy of which be placed on record. Copy of the Aadhar Card of the petitioner no.2 is on the record as Ex. CW1/A. Copy of the Election Commission I-Card of the respondent no.3 is on the record as Ex. CW1/B. (Originals seen and returned.)

I identify the petitioner no.3 Smt. Raj Kumari Ahuja as per her photograph on the SPA executed in favour of petitioner no.2. I identify petitioner no.4 Shri Pathik Ahuja as per his photograph on the SPA in favour of his father i.e. the petitioner no.2. I also identify the petitioner no.5 Mrs. Shalu Ahuja, wife of the petitioner no.4 Shri Pathik Ahuja through SPA in favour of Shri Nayant Ahuja i.e. petitioner no.1.

Photocopies of the said SPAs are on the record as Ex. CW1/C to CW1/E. (Originals seen and returned.)

ANU MALHOTRA, J

RO & AC
FEBRUARY 28, 2018

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NAYANT AHUJA & ORS

Vs. THE STATE GOVT OF NCT OF DELHI & ORS.

Statement of CW2 : Ms. Tina Bajaj, d/o late Shri Arun Bajaj, aged 32 years, r/o D-5, Naraina Vihar, New Delhi

ON S.A.

My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/A. I have seen the original of Memorandum of Understanding dated 05.09.2017 executed between me and the petitioners which 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.

The marriage between me and the petitioner no.1 has been dissolved vide decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 26.09.2016 of the Court of the District Judge, Family Court, Gurgaon, copy of which is on the record as Ex. CW2/C.

Pursuant to the settlement arrived at between me and the petitioners, I have withdrawn the appeal filed by me against the decree of divorce dated 26.09.2016 in FAO No. 6456/2016 on 29.11.2017 in the High Court of Punjab and Haryana, copy of which proceedings dated 29.11.2017 is Ex. CW2/D.

Pursuant to the settlement arrived at between me and the petitioners, a sum of Rs. 45 lakh was to be paid to me by the petitioners, of which a sum of Rs. 22.50 lakh has been received by me previously and the balance sum of Rs. 22.50 lakh has been handed over to me by the petitioner today in Court in the form of a Demand Draft No. 723070 dated 16.02.2018 in my

favour drawn on Kotak Mahindra Bank, copy of which is on the record as Ex. CW2/E. There are no claims of mine left against the petitioners now.

There is no child born of the wedlock between me and the petitioner no.1. I do not oppose the prayer made by the petitioners seeking quashing of the FIR No. 279/2016, PS Kirti Nagar, under Sections 498/406 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 am a graduate.

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**