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

+ **CRL.M.C. 1051/2018**

RAJBIR SAINI & ANR. Petitioners

Through: Mr. Rahul Sheoran, Advocate

versus

THE STATE & ORS Respondents

Through: Mr. Kamal Kr. Ghei, APP
Mr. Subhash Chand, Advocate for R-
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SI Rajiv Kumar, P.S. Jaitpur

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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27.02.2018

CRL.M.A.3809/2018

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. 1051/2018

Petitioners No.1 and 2, husband and father-in-law of the respondent No.2 respectively seek quashing of the FIR No.241/2015 P.S. Jaitpur registered under Sections 498A/406/34 of the Indian Penal Code, 1860 submitting to effect that a settlement has been arrived at between petitioners and respondent No.2 and that the parties i.e. the petitioner No.1 and respondent No.2 are living together amicably without any problem. The Investigating Officer SI Rajiv Kumar has identified the petitioners and the complainant thereof. He has also testified that the other persons named in

the FIR by the complainant i.e. respondent No.2 namely Mr. Sukhbir Singh (brother-in-law), Mr. Raghbir Singh (brother-in-law), Ms. Reeta (sister-in-law), Ms. Sunita (sister-in-law), Ms. Sneh Lata (sister-in-law) and Mr. Kirpal Singh (brother-in-law) have not been summoned for the offences punishable under Sections 498A/406/34 of the Indian Penal Code, 1860. The Investigating Officer has also affirmed the factum of the petitioner No.1 and respondent No.2 living together.

Learned APP for the State submits that in the circumstances of the case, there is no opposition to the prayer made by the petitioners seeking quashing of the FIR in question.

In view of the deposition of the respondent no.2 Ex.CW2/A annexed to the petition, 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 No.1 and the respondent no.2 are living together w.e.f. July, 2017 without any problems along with children, as respondent No.2 has further testified to the effect that she is now happy and that she is graduate and works as Nurse in a government job. She has further testified that she does not want to continue with the prosecution against the petitioners nor against other persons as named in the FIR.

The Investigation Officer has testified that the persons other than the petitioners named in the FIR have not been summoned.

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 No.1 and the respondent no.2, it is considered appropriate to allow the prayer made by the petitioner seeking quashing of FIR No.241/2015, registered at PS Jaipur, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners.

In view thereof the FIR No.241/2015, registered at PS Jaitpur, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential

proceedings emanating therefrom against the petitioners and against all the persons named in the subject FIR are quashed.

ANU MALHOTRA, J

FEBRUARY 27, 2018

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Statement of CW2 : Smt. Pavitra Devi W/o Rajbir Saini, aged 37 years, R/o B-35, Gali No.1, Sandhu Farm Road, Meetha Pur, Extension Badar Pur, New Delhi.

On S.A.

I have been living together with petitioner No.1 w.e.f. July, 2017 along with my children without any problem. I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.241/2015 registered at P.S. Jaitpur registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and I do not seek the prosecution of any of the other persons named in the FIR i.e. Mr. Sukhbir Singh (brother-in-law), Mr. Raghbir Singh (brother-in-law), Ms. Reeta (sister-in-law), Ms. Sunita (sister-in-law), Ms. Sneh Lata (sister-in-law) and Mr. Kirpal Singh (brother-in-law).

I am a graduate and I work as an Assistant Nurse in Government job.

My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/A.

I have made this statement voluntarily of my own accord without any duress, pressure or coercion from any quarter. I am happy now and there is no problem.

ANU MALHOTRA, J

RO & AC
FEBRUARY 27, 2018
ns

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Statement of CW1 : SI Rajiv Kumar, P.S. Jaitpur, Delhi.

On S.A.

I identify the petitioners No.1 and 2 namely Shri Rajbir Saini S/o Shri Vijay Saini and Mr. Vijay Saini S/o Sh. Kripa Ram who are present in court as being accused in the FIR No.241/2015 registered under Sections 498A/406/34 of the Indian Penal Code, 1860 registered at P.S. Jaitpur, Delhi. I also identify the complainant Ms. Pavitra Devi arrayed as respondent No.2. The other persons named in the FIR as accused i.e. Mr. Sukhbir Singh (brother-in-law), Mr. Raghbir Singh (brother-in-law), Ms. Reeta (sister-in-law), Ms. Sunita (sister-in-law), Ms. Sneha Lata (sister-in-law) and Mr. Kirpal Singh (brother-in-law) though named in the FIR have not been summoned as accused. I affirm the factum that the respondent No.2 and the petitioner No.1 are living together peacefully.

ANU MALHOTRA, J

RO & AC
FEBRUARY 27, 2018
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