

\$~50

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1102/2018**
ANIL BAKSHI & ORS Petitioner

Through: Mr. Padam Kr. Khanna, Adv.

versus

STATE (NCT OF DELHI) & ANR Respondent
Through: Mr. Ashish Dutta, APP for State
with W/ASI Sunita, PS Jagatpuri.
R-2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **01.03.2018**

Vide the present petition, the petitioner seeks quashing of FIR No. 147/2015, registered at PS Jagat Puri, under Sections 354/509 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom submitting to the effect that a settlement has been arrived between the petitioners and the respondent no.2 and all disputes between them have been amicably settled.

The Investigating Officer of the case present today in Court has identified the petitioner no. 1 Shri Anil Bakshi, s/o late Shri N.B. Bakshi, petitioner no.2 Shri Rohit Bakshi, s/o Shri Anil Bakshi, petitioner no.3 Smt. Anju Bakshi, s/o Shri Anil Bakshi as being the accused arrayed in FIR No. 147/2015, registered at PS Jagat Puri, under Sections 354/509 Indian Penal Code, 1860 and has also identified the respondent no.2 Ms. X present today in Court as being the complainant thereof. The proofs of identity of the petitioner nos. 1 to 3 and of the respondent no. 2 in the form of photocopies of their original documents produced by them 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 has also signed the mediation settlement dated 06.01.2016 arrived at between her and the petitioners, 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.2 has further testified to the effect that the marriage between her and the petitioner no.2 has been dissolved vide decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 25.11.2017 of the Court of the Judge, Family Court, KKD Courts, New Delhi in HMA No. 194/2017 (New No. 13/2017), copy of which is on the record as Ex. CW2/C. She has further testified to the effect that in terms of the settlement arrived at between her and the petitioners, a total sum of Rs. 7 lacs was to be paid to her by the petitioners, of which a sum of Rs. 4.50 lacs has been received by her previously and the balance sum of Rs. 2.50 lacs has been handed over to her by the petitioner today in Court in the form of Manager's Cheque bearing no. 252685 dated 08.02.2018 in the name of Neha Jindal, in which she has an account drawn on SBI, Uttam Nagar Branch, Delhi, copy of the same be filed and that there are no claims of hers left against the petitioners now. 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 petitioner nos. 1, 2 & 3 nor do I want the petitioner nos. 1, 2 & 3 to be punished in relation thereto.

Learned APP for the State submits that in view of the settlement arrived at between the petitioners and the respondent no.2, 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 arrived at a settlement with the petitioners voluntarily of her own accord without any duress, coercion or pressure from any quarter and taking into account the non-opposition on behalf of the State, dissolution of the marriage between the petitioner no.2 and the respondent no.2 vide a decree of divorce through mutual consent, all claims between the petitioners and the respondent no.2 having been settled, in the interest of justice and for the well-being of the respondent no.2, it is considered appropriate to put a quietus to the litigation between the petitioners and the respondent no.2 for maintenance of peace and harmony between the petitioners and the respondent no.2, 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)

it is considered appropriate to allow the prayer made by the petitioners seeking quashing of FIR No. 147/2015, registered at PS Jagat Puri, under Sections 354/509 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners.

In view thereof the FIR No. 147/2015, registered at PS Jagat Puri, under Sections 354/509 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners are thus quashed.

ANU MALHOTRA, J

MARCH 01, 2018

vm

50

CRL.M.C. 1102/2018

ANIL BAKSHI & ORS

Vs. STATE (NCT OF DELHI) & ANR

Statement of CW1 : W/ASI Sunita, PS Jagatpuri, Delhi.

ON S.A.

I identify the petitioner no. 1 Shri Anil Bakshi, s/o late Shri N.B. Bakshi, petitioner no.2 Shri Rohit Bakshi, s/o Shri Anil Bakshi, petitioner no.3 Smt. Anju Bakshi, s/o Shri Anil Bakshi as being the accused arrayed in FIR No. 147/2015, registered at PS Jagat Puri, under Sections 354/509 Indian Penal Code, 1860. I also identify the respondent no.2 Ms. X present today in Court as being the complainant thereof. The proofs of identity of the petitioner nos. 1 to 3 and of the respondent no. 2 in the form of photocopies of their original documents produced by them are on the record as Ex. CW1/A and Ex. CW1/D respectively. (Originals seen and returned.)

ANU MALHOTRA, J

RO & AC

MARCH 01, 2018

50

CRL.M.C. 1102/2018

ANIL BAKSHI & ORS

Vs. STATE (NCT OF DELHI) & ANR

Statement of CW2 : Ms. X, d/o Shri Dinesh Jindal, aged 28, r/o 122/21, Glai No.6, Shankar Road, Delhi.

ON S.A.

My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/A and the Mediation Settlement dated 06.01.2016 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.

Pursuant to the settlement arrived at between me and the petitioners, a total sum of Rs. 7 lacs was to be paid to me by the petitioners, of which a sum of Rs. 4.50 lacs has been received by me previously and the balance sum of Rs. 2.50 lac has been handed over to me by the petitioner today in Court in the form of Manager's Cheque bearing no. 252685 dated 08.02.2018 in the name of Neha Jindal, in which I have an account drawn on SBI, Uttam Nagar Branch, Delhi, copy of the same be filed. There are no claims of mine left against the petitioners now.

The marriage between me and the petitioner no.2 has been dissolved vide decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 25.11.2017 of the Court of the Judge, Family Court, KKD Courts, New Delhi in HMA No. 194/2017 (New No. 13/2017), copy of which is on the record as Ex. CW2/C.

Pursuant to the settlement arrived at between me and the petitioners, the minor child born of the wedlock between me and the petitioner no.2, is in my custody and shall continue to live in my custody

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No. 147/2015, registered at PS Jagat Puri, under Sections 354/509 Indian Penal Code, 1860 in view of the settlement arrived at between me and the petitioner nos. 1, 2 & 3 nor do I want the petitioner nos. 1, 2 & 3 to be punished in relation thereto.

Proceedings under Section 12 of Protection of Women from Domestic Violence Act, 2005 have already been withdrawn by me against the petitioners.

I have studied upto standard 12th

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

ANU MALHOTRA, J

**RO & AC
MARCH 01, 2018**