

\$~33

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1098/2018**
SHYAM SUNDER SHRIDHAR & ORS Petitioner

Through: Mr. M.K. Gehlaut, Adv. with
petitioners in person.

versus

THE STATE GOVT OF NCT OF DELHI & ANR..... Respondent
Through: Mr. Raghuvinder Varma, APP for
State with SI Bhawani Shankar, PS
Mianwali Nagar.
Mr. Ajit Singh Arora, Adv. for R-2
with R-2.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
01.03.2018

%

Vide the present petition, the petitioner seeks quashing of FIR No. 248/2013, registered at PS Mianwali Nagar, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom submitting to the effect that the petitioners and the respondent no.2 have arrived at a settlement and all disputes between them have been settled amicably.

The Investigating Officer of the case present today in Court has identified the petitioner no. 1 Shri Shyam Sunder Shridhar, s/o Shri Tilak Raj Shridhar, petitioner no.2 Shri Tilak Raj Shridhar, s/o late Shri Jagan Nath, petitioner no.3 Ms. Mohini Shridhar, d/o Shri Tilak Raj Shridhar as being the accused arrayed in FIR No. 248/2013, registered at PS Mianwali Nagar, under Sections 498A/406/34 Indian Penal Code, 1860 and has also

identified the respondent no.2 Ms. Shweta Jaitly 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 of which have been 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 02.06.2017 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 and that pursuant to the said settlement, the marriage between her 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 29.01.2018 of the Court of the Principal Judge, Family Courts (West), THC, New Delhi in HMA No. 514/18, certified copy of which is on the record as Ex. CW2/C. The respondent no.2 has further testified to the effect that in terms of the settlement arrived at between her and the petitioners, a total sum of Rs. 15 lakh was to be paid to her by the petitioners, of which a sum of Rs. 10 lakh has been received by her previously and the balance sum of Rs. 5 lakh has been handed over to her by the petitioner today in Court in the form of Manager's Cheque bearing no. 152154 dated 27.02.2018 in her favour drawn on the SBI Bank, copy of which is on the record as Ex. CW2/D and that there are no claims of hers left against the petitioners now.

She has further testified to the effect that pursuant to the settlement arrived at between her and the petitioners, the minor child born of the

wedlock between her and the petitioner no.1 is in her custody and shall continue to live in her custody and that she is a graduate and previously used to work in Human Resources.

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 being no reason to disbelieve her statement that she has arrived at a settlement with the petitioner voluntarily of her own accord without any duress, coercion or pressure from any quarter, non-opposition on behalf of the State, the identification of the petitioner nos. 1, 2 & 3 by the Investigating Officer and the settlement brought forth between the petitioners and the respondent no.2 through mediation settlement Ex. CW2/B, dissolution of the marriage between the petitioner no.1 and the respondent no.2 vide a decree of divorce through mutual consent (Ex. CW2/C), all claims between the petitioners and the respondent no.2 having been settled and the matrimonial discord between the petitioner no.1 and the respondent no.2 having been dissolved vide dissolution of marriage between them, 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)

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. 248/2013, registered at PS Mianwali Nagar, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner.

In view thereof the FIR No. 248/2013, registered at PS Mianwali Nagar, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners are thus quashed.

Copy of the order be given *Dasti*, as prayed.

ANU MALHOTRA, J

MARCH 01, 2018

vm

CRL.M.C. 1098/2018

page no. 6 of 6

33

CRL.M.C. 1098/2018

SHYAM SUNDER SHRIDHAR & ORS

Vs. THE STATE GOVT OF NCT OF DELHI & ANR

Statement of CW1 : SI Bhawani Shankar, PS Mianwali Nagar, Delhi.

ON S.A.

I identify the petitioner no. 1 Shri Shyam Sunder Shridhar, s/o Shri Tilak Raj Shridhar, petitioner no.2 Shri Tilak Raj Shridhar, s/o late Shri Jagan Nath, petitioner no.3 Ms. Mohini Shridhar, d/o Shri Tilak Raj Shridhar as being the accused arrayed in FIR No. 248/2013, registered at PS Mianwali Nagar, under Sections 498A/406/34 Indian Penal Code, 1860. I also identify the respondent no.2 Ms. Shweta Jaitly 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

Statement of CW2 : Smt. Shweta Jaitly, d/o Shri Vinod Kumar Jatily, aged 30 years, r/o 291, GH-5 & 7, Paschim Vihar, New Delhi.

ON S.A.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No. 248/2013, registered at PS Mianwali Nagar, under Sections 498A/406/34 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.

My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/A and the Mediation Settlement dated 02.06.2017 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 29.01.2018 of the Court of the Principal Judge, Family Courts (West), THC, New Delhi in HMA No. 514/18, certified 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.1 is in my custody and shall continue to live in my custody.

Pursuant to the settlement arrived at between me and the petitioners, a total sum of Rs. 15 lakh was to be paid to me by the petitioners, of which a sum of Rs. 10 lakh has been received by me previously and the balance sum

of Rs. 5 lakh has been handed over to me by the petitioner today in Court in the form of Manager's Cheque bearing no. 152154 dated 27.02.2018 in my favour drawn on the SBI Bank, copy of which is on the record as Ex. CW2/D. There are no claims of mine left against the petitioners now.

I am a graduate and previously used to work in Human Resources.

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

ANU MALHOTRA, J

**RO & AC
MARCH 01, 2018**