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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 1288/2018
ROHIT KANOJIA & ORS Petitioner
Through: Mr. Richa Verma, Adv.
versus

STATE & ANR Respondent
Through: Mr. Panna Lal Sharma, APP for State
with ASI Randhir Singh, PS Dabri.
Ms. Alpana Malik, Adv. for R-2.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **14.03.2018**

Crl. M.A. 4725/2018 (Exemption)

Exemption allowed, subject to just exceptions.

The application is disposed of.

CRL.M.C. 1288/2018

Vide the present petition, the petitioner seeks quashing of FIR No. 228/2017, registered at PS Dabri, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom submitting to the effect that the parties have arrived at a settlement with each other and now the respondent no. 2 is living with the petitioner no. 1 and the petitioner nos. 2 to 5 amicably and peacefully without any problems now and thus she does not seek the continuation of the proceedings any further in relation the FIR in question.

The Investigating Officer of the case present today in Court has identified the petitioner no. 1 Shri Rohit Kanojia, s/o Shri Raj Kumar, petitioner no.2 Shri Raj Kumar, s/o late Shri Radha Krishan, petitioner no.3

Smt. Meenu, w/o Shri Raj Kumar, petitioner no.4 Shri Mohit, s/o Shri Raj Kumar and the petitioner no.5 Ms. Anjali Kanojia, d/o Shri Raj Kumar as being the accused arrayed in FIR No. 228/2017, registered at PS Dabri, under Sections 498A/406/34 Indian Penal Code, 1860 registered on the complaint of the respondent no.2 and has also identified the respondent no.2 as being the complainant thereof. The proofs of identity of the petitioner nos. 1 to 5 and of the respondent no. 2 in the form of the photocopies of their Aadhar Cards are on the record as Ex. CW1/A to Ex. CW1/F 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 voluntarily of her own accord without any duress or coercion from any quarter. The respondent no.2 has further testified to the effect that she is studying in B.A. (IInd year) and is a house wife and that she is living with the petitioner no.1, her spouse and the petitioner nos. 2 to 5, her in-laws since September, 2017 without any problems now and that she intends to live with the petitioner no.1 and that there is a minor child born of the wedlock between her and the petitioner no.1 and that there are no problems now. She further states to the effect that she does not oppose the prayer made by the petitioners seeking quashing of the FIR in question and does not want the petitioners to be punished in relation thereto.

Learned APP for the State submits that in view of the settlement arrived at between the parties, 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 is 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 as apparently the FIR in question is indicated to have been registered on the basis of a matrimonial discord between the petitioner no.1. and the respondent no.2, which has since been resolved and that the petitioners and the respondent no.2 are living together without any problems now as testified by the respondent no.2 who is adequately educated and understands the implications of the statement made by her and taking into account the non-opposition on behalf of the State, for the well-being of the respondent no.2, it is considered appropriate to put a quietus to the litigation between them, for maintenance of peace and harmony between the respondent no.2 and the petitioners, 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)

the FIR No. 228/2017, registered at PS Dabri, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners are thus quashed.

ANU MALHOTRA, J

MARCH 14, 2018

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CRL.M.C. 1288/2018
ROHIT KANOJIA & ORS
Vs. STATE & ANR

Statement of CW1 : ASI Randhir Singh, PS Dabri, Delhi.

ON S.A.

I identify the petitioner no. 1 Shri Rohit Kanojia, s/o Shri Raj Kumar, petitioner no.2 Shri Raj Kumar, s/o late Shri Radha Krishan, petitioner no.3 Smt. Meenu, w/o Shri Raj Kumar, petitioner no.4 Shri Mohit, s/o Shri Raj Kumar and the petitioner no.5 Ms. Anjali Kanojia, d/o Shri Raj Kumar as being the accused arrayed in FIR No. 228/2017, registered at PS Dabri, under Sections 498A/406/34 Indian Penal Code, 1860 registered on the complaint of the respondent no.2 who is present today in Court whom I also identify. The proofs of identity of the petitioner nos. 1 to 5 and of the respondent no. 2 in the form of the photocopies of their Aadhar Cards are on the record as Ex. CW1/A to Ex. CW1/F respectively. (Originals seen and returned.)

ANU MALHOTRA, J

**RO & AC
MARCH 14, 2018**

Statement of CW2 : Smt. Asha Kanojia, w/o Shri Rohit Kanojia, aged 24 years, r/o E-184, Gali No. 70, Part-3, Mahavir Enclave, Delhi (my parental address), presently r/o 5627-28, Sector-3, 36 Yards, Hanuman Mandir, Ballabhgarh, Faridabad (Haryana).

ON S.A.

I do not oppose the prayer made by the petitioner no. 1 Shri Rohit Kanojia, s/o Shri Raj Kumar, petitioner no.2 Shri Raj Kumar, s/o late Shri Radha Krishan, petitioner no.3 Smt. Meenu, w/o Shri Raj Kumar, petitioner no.4 Shri Mohit, s/o Shri Raj Kumar and the petitioner no.5 Ms. Anjali Kanojia, d/o Shri Raj Kumar seeking quashing of the FIR No. 228/2017, registered at PS Dabri, under Sections 498A/406/34 Indian Penal Code, 1860 nor do I want the petitioners to be punished in relation thereto.

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 am living with the petitioner no.1, my spouse and the petitioner nos. 2 to 5, my in-laws since September, 2017 without any problems now and I want to continue to live with the petitioner no.1. There is a minor child born of the wedlock between me and the petitioner no.1.

I am studying in B.A. (IInd year) and I am a house wife.

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 14, 2018**