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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1148/2018**

MANOJ KUMAR & ORS

..... Petitioners

Through: Mr. Jai Prakash Sharma, Advocate.

versus

THE STATE & ANR

..... Respondents

Through: Mr. Izhar Ahmad, APP for State with
ASI Anita Dagar, PS Najafgarh.
Respondent no. 2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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06.03.2018

CRL.M.A. 4170/2018 (Ex.)

Exemption allowed subject to just exceptions.

The application is disposed of.

CRL.M.C. 1148/2018

Vide the present petition, the petitioners seek quashing of the FIR no. 141/2015, under Sections 498-A/406/34 of the Indian Penal Code, 1860, PS Najafgarh registered on the complaint of the respondent no. 2 present today in the Court submitting to the effect that there is a settlement arrived at between the petitioner no. 1 and the respondent no. 2.

The Investigating Officer of the case present today in the Court

and has identified the petitioner no. 1 Sh. Manoj Kumar, petitioner no. 2 Sh. Sukhbir Singh and petitioner no. 3 Smt. Shakuntla as being the accused arrayed in FIR No.141/2015, under Sections 498-A/406/34 of the Indian Penal Code, 1860, PS Najafgarh. He has also stated that three other persons namely Sh. Surender, Smt. Ritesh and Sh. Ravi were not charge sheeted and had been arrayed in Column no. 12 inasmuch as no evidence was found against them and no cognizance has also been taken by the learned Trial Court qua them. He has also identified the respondent no. 2, Ms. Pooja being the complainant of the said FIR present in court today. The proof of identity of the petitioner nos. 1 to 3 in the form of their Aadhar Cards and of the respondent no. 2 in the form of her Election Commission Card have been produced in original, photocopies of the same are on the record as Ex. CW1/A, Ex. CW1/B, Ex. CW1/C and Ex. CW1/D respectively.

The respondent no. 2 on her examination by the Court on oath has testified to having sworn her affidavit as Ex. CW2/A annexed to the petition which she has signed voluntarily of her own accord without any duress or coercion from any quarter and also testified to the effect that pursuant to the settlement arrived at between her and the petitioners, the marriage between her and the petitioner no. 1 has since been dissolved by a decree of divorce through mutual consent under Section 13(B)(2) of the HMA in HMA no. 406/18 of the Court of the Principal Judge Family Court South West Dwarka dated 16.02.2018, photocopy of which is on the record as Ex. CW2/B and further testified to the effect that in terms of the settlement arrived at between her and the petitioners, a total sum of Rs. 3,50,000/- was paid

to her by the petitioners of which a sum of Rs. 3,00,000/- has already been received by her and a balance sum of Rs. 50,000/- has been handed over to her today in the Court by the petitioners vide a demand draft bearing no. 250169 dated 26.02.2018 drawn on the Bank of Baroda in her favour, photocopy of which is on the record as Ex. CW2/C. She has further stated that there are now no claims of hers left against the petitioners. *Inter alia* she has testified that there is no child born out of the wedlock between her and the petitioner no. 1 and that she does not oppose the prayer made by the petitioners seeking quashing of the FIR No.141/2015, under Sections 498-A/406/34 of the Indian Penal Code, 1860, PS Najafgarh nor does she want them to be punished in relation thereto and also she does not want to seek any further proceedings in relation to the said FIR against Sh. Surender, Smt. Ritesh and Sh. Ravi mentioned in the said FIR in view of the settlement arrived at between her and the petitioners.

She has also stated that she has done her graduation and presently she is pursuing her B.Ed and further stated that she has made her statement voluntarily of her own accord without any duress, pressure or coercion from any quarter.

In view of the deposition of the respondent no. 2, identification of the petitioners and the respondent no. 2 by the Investigating Officer and the factum that the three other persons named as accused, i.e., Sh. Surender, Smt. Ritesh and Sh. Ravi were not charge sheeted and had been arrayed in Column no. 12 inasmuch as no evidence was found against them and no cognizance has also been taken by the learned

Trial Court qua them and the marriage between the petitioner no. 1 and the respondent no. 2 having also been dissolved by a decree of divorce and also the factum that the respondent no. 2 is apparently well educated and capable of understanding the implications of the statement made by her, it is considered appropriate to allow the prayer made by the petitioners seeking quashing of the FIR No.141/2015, under Sections 498-A/406/34 of the Indian Penal Code, 1860, PS Najafgarh. I

It is considered essential to put *a quietus* to the litigation 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.]”

(emphasis supplied)

and in the case of *Jitendra Raghuvanshi & Ors. Vs. Babita Raghuvanshi & Anr.* (2013) 4 SCC 58, wherein the Supreme Court in respect of the matrimonial disputes has specifically held as follows:-

“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 thus considered appropriate in the interest of justice that the prayer made by the petitioners seeking quashing of the FIR No.141/2015, under Sections 498-A/406/34 of the Indian Penal Code, 1860, PS Najafgarh and all consequential proceedings emanating therefrom is allowed and thus the No.141/2015, under Sections 498-A/406/34 of the Indian Penal Code, 1860, PS Najafgarh and all consequential proceedings emanating therefrom against the petitioner no. 1 Sh. Manoj Kumar, petitioner no. 2 Sh. Sukhbir Singh and petitioner no. 3 Smt. Shakuntla are quashed.

The petition is disposed of.

ANU MALHOTRA, J

MARCH 06, 2018
NC

Item No. 48
CRL.M.C. 1148/2018
MANOJ KUMAR & ORS. Vs. STATE & ANR.
06.03.2018

CW-1 ASI Anita Dagar, Police Station Najafgarh.

ON S.A.

I identify the petitioner no. 1 Sh. Manoj Kumar, petitioner no. 2 Sh. Sukhbir Singh and petitioner no. 3 Smt. Shakuntla as being the accused arrayed in FIR No.141/2015, under Sections 498-A/406/34 of the Indian Penal Code, 1860, PS Najafgarh. Three other persons namely Sh. Surender, Smt. Ritesh and Sh. Ravi were not charge sheeted and had been arrayed in Column no. 12 inasmuch as no evidence was found against them and no cognizance has also been taken by the learned Trial Court qua them. I also identify the respondent no. 2, Ms. Pooja being the complainant of the said FIR present in court today. The proof of identity of the petitioner nos. 1 to 3 in the form of photocopies of their Aadhar Cards and of the respondent no. 2 in the form of photocopy of her Election Commission Card are on the record as Ex. CW1/A, Ex. CW1/B, Ex.CW1/C and Ex. CW1/D respectively. (Original seen and returned).

RO & AC
MARCH 06, 2018.

ANU MALHOTRA, J

Item No. 48
CRL.M.C. 1148/2018
MANOJ KUMAR & ORS. Vs. STATE & ANR.
06.03.2018

Statement of CW2 : Ms. Pooja, d/o Shri Mahender Singh, aged 25 years, r/o 159, E-Block Mansa Ram Park, Uttam Nagar, Delhi.

ON S.A.

My affidavit annexed to the petition bears my signatures thereon at points-A & B on Ex.CW2/A and I have signed it voluntarily of my own accord without any duress, coercion or pressure from any quarter. Pursuant to the settlement arrived at between me and the petitioners, the marriage between me and the petitioner no. 1 has since been dissolved by a decree of divorce through mutual consent under Section 13(B)(2) of the HMA in HMA no. 406/18 of the Court of the Principal Judge Family Court South West Dwarka dated 16.02.2018, photocopy of which is on the record as Ex. CW2/B.

In terms of the settlement arrived at between me and the petitioners, a total sum of Rs. 3,50,000/- was paid to me by the petitioners of which a sum of Rs. 3,00,000/- has already been received by me and a balance sum of Rs. 50,000/- has been handed over to me now in the Court by the petitioners vide a demand draft bearing no. 250169 dated 26.02.2018 drawn on the Bank of Baroda in my favour, photocopy of which is on the record as Ex. CW2/C. There are now no claims of mine left against the petitioners.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.141/2015, under Sections 498-A/406/34 of the Indian Penal Code, 1860, PS Najafgarh nor do I want them to be punished in relation

thereto and also I do not want to seek any further proceedings in relation to the said FIR against Sh. Surender, Smt. Ritesh and Sh. Ravi mentioned in the said FIR in view of the settlement arrived at between me and the petitioners.

I have done my graduation and presently I am pursuing my B.Ed. 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 06, 2018**