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IN THE HIGH COURT OF DELHI AT NEW DELHI
CRL.M.C. 1144/2018 & CRL.M.A. 4165/2018
THAKUR DAS Petitioner

Through: Mr. Vineet Jindal & Ms. Richa
Panday, Advocates.

versus

STATE & ANR

..... Respondent

Through: Mr. Sanjeev Sabharwal, APP for State
with ASI Manoj Kumar, PS Swaroop
Nagar.
R-2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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06.03.2018

Vide the present petition, the petitioner seeks quashing of the FIR No.122/2008, under Sections 498-A/406/34 of the Indian Penal Code, 1860, PS Sarup Nagar 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 and that the marriage between the petitioner and the respondent no. 2 has been dissolved by a decree of divorce through mutual consent under Section 13(B)(2) of the HMA in HMA no. 1395/17 of the Court of the Judge Family Court Rohini and the attested copy as issued by the copying agency thereof is on the record as Ex. CW2/B.

The Investigating Officer of the case present today in the Court and has identified the the petitioner Thakur Das as being the sole

CRL.M.C. 1144/2018

Page 1 of 6

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5

accused arrayed in FIR No.122/2008, under Sections 498-A/406/34 of the Indian Penal Code, 1860, PS Sarup Nagar. He has also stated that there is no other person arrayed as accused in the said FIR. He has also identified the respondent no. 2, Ms. Poonam being the complainant of the said FIR present in the Court today. The proof of identity of the petitioner and of the respondent no. 2 in the form of their Aadhar Cards have been produced in original and photocopies of the same are on the record as Ex. CW1/A & Ex. CW1/B.

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 the marriage between her and the petitioner has been dissolved by a decree of divorce through mutual consent under Section 13(B)(2) of the HMA in HMA no. 1395/17 of the Court of the Judge Family Court Rohini and the attested copy as issued by the copying agency thereof is on the record as Ex. CW2/B vide which it has been submitted specifically observed to the effect that there was no collusion between the spouses and that their consent was free from any fraud and force and that there was no possibility of any reconciliation also and that the spouses to the said petition, i.e., the petitioner and the respondent no. 2 herein had take a matured and well considered decision.

In reply to specific court queries put up by the Court also, the respondent no. 2 has affirmed her stand repeatedly as also vouched

6

through Ex. CW2/A and has reiterated the submissions made in the petition and she also stated that she has not assisted by any counsel nor does she want any assistance of any counsel as well. She has also testified to the effect that she has studied upto standard 10th and works in a Parlour and earns an income of approximately Rs. 12,000/- per month.

On behalf of the State, there is no opposition to the prayer made by the petitioner seeking quashing of the FIR in question in view of the settlement arrived at between the parties.

In view of the deposition of the respondent no. 2 on oath on examination by the Court, that there appears 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. She reiterated whilst deposing before the Court that the marriage between her and the petitioner has been dissolved by a decree of divorce through mutual consent under Section 13(B)(2) of the HMA in HMA no. 1395/17 of the Court of the Judge Family Court Rohini, and that it had been agreed between her and the petitioner that she would make no claim towards alimony and maintenance nor in the movable or immovable assets of the petitioner. She stated further that there are three minor children born out of the wedlock between her and the petitioner and they are in her custody and shall remain in her custody as per the settlement arrived at between me and the petitioner. She also stated that she does not oppose the prayer made by the petitioner

7

seeking quashing of the FIR No.122/2008, PS Sarup Nagar under Sections 498-A/406/34 of the Indian Penal Code, 1860 nor does she want him to be punished in relation thereto in view of the settlement arrived at between her and the petitioner.

In view thereof, it is considered appropriate to put a *quietus* to the litigation to enable the respondent no. 2 to proceed further in her life and thus 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

8

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

8

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.122/2008, PS Saroop Nagar under Sections 498-A/406/34 of the Indian Penal Code, 1860, and all consequential proceedings emanating therefrom is allowed and thus the FIR No.122/2008, PS Saroop Nagar under Sections 498-A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioner are quashed.

The petition is disposed of.

ANU MALHOTRA, J

MARCH 06, 2018
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