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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1259/2018**
RAJ KAMAL & ORS Petitioners
Through: Mr. Puneet Verma, Advocate.

versus

THE STATE (NCT OF DELHI)& ANR Respondents
Through: Mr. Raghuvinder Varma, APP for
State with SI Sadhna, PS Anand
Parbat.
Mr. Dheeraj Kumar Pandey, Adv for
R-2.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **13.03.2018**

CRL.M.A.4614/18 (Ex.).

Exemption allowed subject to all just exceptions.

The application is disposed of.

CRL.M.C. 1259/2018

Vide the present petition, the petitioners seek quashing of the FIR No. 52/14, PS Anand Parbat under Sections 498-A/406/34 of the Indian Penal Code, 1860 submitting to the effect that a settlement has been arrived at between the parties, inasmuch as the petitioner no. 1 and the respondent no. 2 have settled their matrimonial discord and are now living together along with their two minor daughters without any problems now and that the petitioner no. 1 and the respondent no.2 intend to live together onwards.

The Investigating Officer of the present case is present today in the Court and has identified the petitioner no. 1 Raj Kamal, petitioner no. 2 Chanchal, petitioner no. 3 Smt. Shakuntala, petitioner no. 4 Nimmo, petitioner no. 5 Bhura, petitioner no. 6 Smt. Seema, petitioner no. 7 Mukesh, petitioner no. 8 Smt. Bunty as being the accused arrayed in FIR No.52/14, PS Anand Parbat under Sections 498-A/406/34 of the Indian Penal Code, 1860 and stated that there are no other persons arrayed as accused in the said FIR. He has also identified the respondent no. 2, Smt. Vinita being the complainant of the said FIR present in Court today. The proof of identity of the petitioner nos. 1 to 8 in the form of their Aadhar Cards have been produced in original, photocopies of the Aadhar Cards of the petitioner nos. 1 to 7 are on the record as Ex. CW1/A and Ex. CW1/G respectively and original Aadhar Card of petitioner no. 8 bearing no. 6488 6701 6118, photocopy of which is directed to be placed on the record and the photocopy of the Aadhar Card of the respondent no. 2 is on the record as Ex. CW2/A, originals of which have been seen and returned.

Learned APP for State in the circumstances of the case does not oppose the prayer made by the petitioners seeking quashing of the FIR in question and all consequential proceedings emanating therefrom.

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 as bearing her signatures thereon at points A & B and she

has signed it voluntarily of her own accord without any duress, coercion or pressure from any quarter. She has further testified to the effect that she has already withdrawn the proceedings under the Protection of Women from Domestic Violence Act, 2005 vide case ID no. 551082-2016 PS Patel Nagar and the certified copy of the proceedings dated 26.09.2017 of the Court of the learned MM-03, (Mahila Court), West, THC, Delhi in relation thereto is on the record as Ex. CW2/B. She has further testified to the effect that she is living with the petitioner no. 1 for the last one and a half years along with her two minor daughters without any problems and intend to live with him, she further states that she does not oppose the prayer made by the petitioners seeking quashing of the FIR in quashing nor does she want them to be punished in relation thereto. She has further stated that she has studied till Standard 11th and she is a house wife. There appears no reason to disbelieve the statement of the respondent no. 2 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 that she is now living with the petitioner without any problems.

As the matrimonial discord between the petitioner no. 1 and the respondent no. 2 is apparently a reason for registration of the FIR No.52/14, PS Anand Parbat under Sections 498-A/406/34 of the Indian Penal Code, 1860, which matrimonial discord has now been settled between the parties and the petitioner no. 1 and the respondent no. 2 are now living together, it is considered appropriate for the

CRL.M.C. 1259/2018

maintenance of peace and harmony between the parties and for the well being of the petitioner no. 1 and the respondent no. 2 herself and for the minor children to put a quietus to the litigation between the parties, 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.52/14, PS Anand Parbat under Sections 498-A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom is allowed and FIR No.52/14, PS Anand Parbat under Sections 498-A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioners are quashed.

The petition is disposed of.

Copy of the order be given Dasti, as prayed.

ANU MALHOTRA, J

MARCH 13, 2018/NC

Item No. 54

CRL.M.C. 1259/2018

RAJ KAMAL & ORS. Vs. STATE & ANR.

13.03.2018

CW-1 SI Sadhna, Police Station Anand Parbat.

ON S.A.

I identify the petitioner no. 1 Raj Kamal, petitioner no. 2 Chanchal, petitioner no. 3 Smt. Shakuntala, petitioner no. 4 Nimmo, petitioner no. 5 Bhura, petitioner no. 6 Smt. Seema, petitioner no. 7 Mukesh, petitioner no. 8 Smt. Bunty as being the accused arrayed in FIR No.52/14, PS Anand Parbat under Sections 498-A/406/34 of the Indian Penal Code, 1860. I also identify the respondent no. 2, Smt. Vinita being the complainant of the said FIR present in Court today. The proof of identity of the petitioner nos. 1 to 8 in the form of their Aadhar Cards have been produced in original, photocopies of the Aadhar Cards of the petitioner nos. 1 to 7 are on the record as Ex. CW1/A and Ex. CW1/G respectively and original Aadhar Card of petitioner no. 8 bearing no. 6488 6701 6118, photocopy of which be submitted on the record. (Originals seen and returned).

**RO & AC
MARCH 13, 2018.**

ANU MALHOTRA, J

Item No. 54

CRL.M.C. 1259/2018

RAJ KAMAL & ORS. Vs. STATE & ANR.

Statement of CW2 : Ms. Vinita, w/o Sh.Raj Kamal, D/o Sh. Khub Ram, aged 25 years, presently residing at Jogi Wali Gali, Mathura and my parental address is T-212, Baljeet Nagar.

ON S.A.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.52/14, PS Anand Parbat under Sections 498-A/406/34 of the Indian Penal Code, 1860 nor do I want them to be punished in relation thereto. Inasmuch as I am living with the petitioner no. 1 for the last one and a half years along with my two minor daughters and now there are no problems between me and the petitioners.

My affidavit annexed to the petition bears my signatures at points A & B thereon on Ex. CW2/A. I have signed it voluntarily of my own accord without any duress, coercion or pressure from any quarter. I have studied till Standard 11th. I have already withdrawn the proceedings under the DV Act vide case ID no. 551082-2016 PS Patel Nagar and the certified copy of the proceedings dated 26.09.2017 of the Court of the learned MM-03, (Mahila Court), West, THC, Delhi in relation thereto is on the record as Ex. CW2/B. I have brought my original Aadhar Card, photocopy of which is on the record as CW2/C. (Original seen and returned).

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 13, 2018