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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 1159/2018
MANISH KUMAR & ORS Petitioner
Through: Mr. Prashant Sharma, Adv.

versus

STATE & ANR Respondent
Through: Mr. Sanjeev Sabharwal, APP for
State with SI Jitender, PS KNK Marg.
Mohd. Sarfaraj, Adv. for R-2.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **07.03.2018**

Vide the present petition, the petitioner seeks quashing of FIR No.128/2012, registered at PS K.N. Katju Marg, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom submitting to the effect that a settlement has been arrived at between the petitioners and the respondent no.2.

The Investigating Officer of the case present today in Court has identified the petitioner no. 1 Shri Manish Kumar, s/o Prof. Hoti Prasad, petitioner no.2 Smt. Gyandhara, w/o Prof. Hoti Prasad, petitioner no.3 Dr. Meeta Verma, d/o Prof. Hoti Prasad, petitioner no.4 Dr. Poonam Verma, w/o Shri Ravinder Verma @ Ravi Verma as being the accused arrayed in FIR No.128/2012, registered at PS K.N. Katju Marg, under Sections 498A/406/34 Indian Penal Code, 1860 and has also identified the respondent no.2 Ms. Rashmi Verma present today in Court as being the complainant thereof. The proofs of identity of the petitioner nos. 1 to 4 and of the

respondent no. 2 in the form of photocopies of documents produced by them are on the record as Ex. CW1/A and Ex. CW1/E respectively. (Originals 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 having signed the Counselling Cell Settlement dated 05.08.2017 arrived at in the Court of Judge, North District, Family Court, Rohini Delhi as Ex. CW2/B voluntarily of her own accord without any duress or coercion from any quarter. The respondent no.2 has further testified to the effect that there are no claims of hers left against the petitioners now and has stated that in terms of the said settlement arrived at between her and the petitioners, the minor child Gauzeen Verma born of the wedlock between her and the petitioner no.1 is in her custody and shall continue to remain in her custody. The respondent no.2 has affirmed the factum of dissolution of marriage between her and the petitioner no.1 vide a decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 18.11.2017 of the Court of the Judge, Family Court, North, Rohini, New Delhi in HMA No. 1496/17, copy of which is on the record as Ex. CW2/C. She has further stated that she has studied upto standard 12th and presently works as a Lab Assistant in Attar Jain Sain Hospital.

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.

As the respondent no.2 has categorically testified to the effect that there are no claims of hers left against the petitioners and that the marriage

between her and the petitioner no.1 having been dissolved vide a decree of divorce through mutual consent and 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 coupled with the factum that the respondent no.2 is adequately educated and has studied upto standard 12th, there is no reason to disbelieve her statement 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 taking into account the non-opposition on behalf of the State, it is considered appropriate to put a quietus to the litigation between them, 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 petitioners and the respondent no.2, the FIR No.128/2012, registered at PS K.N. Katju Marg, 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 07, 2018

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CRL.M.C. 1159/2018
MANISH KUMAR & ORS
Vs. STATE & ANR

Statement of CW1 : SI Jitender, PS KNK Marg, Delhi.

ON S.A.

I identify the petitioner no. 1 Shri Manish Kumar, s/o Prof. Hoti Prasad, petitioner no.2 Smt. Gyandhara, w/o Prof. Hoti Prasad, petitioner no.3 Dr. Meeta Verma, d/o Prof. Hoti Prasad, petitioner no.4 Dr. Poonam Verma, w/o Shri Ravinder Verma @ Ravi Verma as being the accused arrayed in FIR No.128/2012, registered at PS K.N. Katju Marg, under Sections 498A/406/34 Indian Penal Code, 1860. I also identify the respondent no.2 Ms. Rashmi Verma present today in Court as being the complainant thereof. The petitioner no.1 has produced his Identity card issued by the Bar Council of Delhi, photocopy of which be placed on record. The proofs of identity of the petitioner nos. 1 to 4 and of the respondent no. 2 in the form of photocopies of documents produced by them are on the record as Ex. CW1/A and Ex. CW1/E respectively. (Originals seen and returned.)

ANU MALHOTRA, J

**RO & AC
MARCH 07, 2018**

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CRL.M.C. 1159/2018
MANISH KUMAR & ORS
Vs. STATE & ANR

Statement of CW2 : Ms. Rashmi Verma, d/o Shri Jagdish Saran Verma, aged 37 years, r/o G3/206, Sector-16, Rohini, Delhi.

ON S.A.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.128/2012, registered at PS K.N. Katju Marg, 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. The Counselling Cell Settlement arrived at in the Court of Judge, North District, Family Court, Rohini Delhi bears my signature thereon on at point-A on Ex. CW2/B. I have signed both these documents voluntarily of my own accord without any duress, pressure or coercion from any quarter. There are no claims of mine left against the petitioners now. In terms of the said settlement arrived at between me and the petitioners, the minor child Gauzeen Verma is in my custody and shall continue to remain in my custody.

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 18.11.2017 of the Court of the Judge, Family Court, North, Rohini, New Delhi in HMA No. 1496/17, copy of which is on the record as Ex. CW2/C.

I have studied upto standard 12th and presently work as Lab Assistant in Attar Jain Sain Hospital.

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 07, 2018**