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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 1227/2018**

MOHD RIYAJ

..... Petitioner

Through: Mr. R.P.S. Bhatti, Advocate along
with petitioner.

versus

THE STATE GOVT OF NCT OF DELHI & ANR Respondents

Through: Mr. Sanjeev Sabharwal, APP for
State.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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09.03.2018

CRL.M.A.4478/18 (Ex.)

Exemption allowed subject to all just exceptions.

The application is disposed of.

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Vide the present petition, the petitioner seeks quashing of the FIR No.36/2015, PS Zafrabad under Sections 498-A/406/34 of the Indian Penal Code, 1860 and under Section 4 of the Dowry Prohibition Act, 1961 submitting to the effect that a settlement has been arrived at between the petitioner and the respondent no. 2 and the respondent no. 2 is now living with the petitioners.

The Investigating Officer of the present case has identified the petitioner Mohammad Riyaj as being the accused arrayed in FIR No.36/2015, PS Zafrabad under Sections 498-A/406/34 of the Indian

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Penal Code, 1860 and under Section 4 of the Dowry Prohibition Act,

1961. He has further stated that there were three persons namely Firdos, Gaffar and Mohd. Siraz put in Column no. 12 and no cognizance has been taken against them and no proceedings whatsoever were initiated against the two other persons namely Mohd. Zahirudin and Iqbal in as much as they were living at Dhampur and the respondent no. 2 having been residing with the petitioner in Delhi at the relevant time. He has also identified the respondent no. 2, Ms. Ifra being the complainant of the said FIR present in 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, the photocopies of which are on the record as Ex. CW1/A and Ex. CW1/B and the same are seen and returned.

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thereon at points A & B and also stated that all the previous petitions filed by her against the petitioners had been withdrawn. She has further stated that she is living with the petitioner at Dhampur, Bijnor along with her mother-in-law and two minor children since the last 2 years and that there are now no problems and she wants to continue to live with the petitioner.

During the course of the submissions that were made by her, she sought that the petitioner does not go abroad qua which the petitioner on his examination on oath has stated that he has earlier gone to Dubai for the work of stitching and has returned back and

now he does not intend to go back to Dubai.

The respondent no. 2 does not oppose the prayer made by the petitioner seeking quashing of the FIR in question nor she seeks any further proceedings against the persons named in the FIR in view of the settlement arrived at between the parties.

On behalf of the State, there is no opposition to the prayer made by the petitioner seeking quashing of the FIR No.36/2015, PS Zafrabad under Sections 498-A/406/34 of the Indian Penal Code, 1860 and under Section 4 of the Dowry Prohibition Act, 1961 in view of the settlement arrived at between the petitioner and the respondent no. 2.

In view of the deposition of the respondent no. 2 to the factum that she is living with the petitioner as stated by her for the last 2 years along with her mother-in-law and her two minor children and that there are now no problems. In view thereof, it is considered appropriate to put a quietus to the litigation between the parties and for the maintenance of peace and harmony and also for the well being of the respondent no. 2 and her two minor children, 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.36/2015, PS Zafrabad under Sections 498-A/406/34 of the Indian

Penal Code, 1860 and under Section 4 of the Dowry Prohibition Act, 1961 and all consequential proceedings emanating therefrom is allowed and FIR No.36/2015, PS Zafrabad under Sections 498-A/406/34 of the Indian Penal Code, 1860 and under Section 4 of the Dowry Prohibition Act, 1961 and all consequential proceedings emanating therefrom against the petitioner and other persons named in the FIR are quashed.

The petition is disposed of.

ANU MALHOTRA, J

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CW-1 ASI Virender Singh, Police Station Zafrabad.

ON S.A.

I identify the petitioner Mohammad Riyaj as being the accused arrayed in FIR No.36/2015, PS Zafrabad under Sections 498-A/406/34 of the Indian Penal Code, 1860 and under Section 4 of the Dowry Prohibition Act, 1961. The other three persons namely Firdos, Gaffar and Mohd. Siraz were put in Column no. 12 and no cognizance against them taken place. There were no proceedings initiated against two other persons namely Mohd. Zahirudin and Iqbal as they were living at Dhampur and the respondent no. 2 was living with the petitioner in Delhi. I also identify the respondent no. 2, Ms. Ifra being the complainant of the said FIR present in Court today. The proof of identity of the petitioner and of the respondent no. 2 in the form of photocopies of their Aadhar Cards are on the record as Ex. CW1/A and Ex. CW1/B respectively. (Original seen and returned).

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Statement of CW2 : Ms. Ifra, w/o Mohd. Riyaz, d/o Allahudin, aged 20 years, r/o Dhampur, Bijnor.

ON S.A.

I am living with the petitioner at Dhampur, Bijnor along with my mother-in-law and two minor children since the last 2 years without any problems and I want to continue to live with the petitioner. I have studied till Standard 8th.

My affidavit annexed to the petition bears my signatures at points A & B thereon on Ex. CW2/A. I have two minor children, i.e., one daughter and a son. My daughter is with me today present in the Court and my son is with my mother-in-law. I do not oppose the prayer made by the petitioner seeking quashing of the FIR No.36/2015, PS Zafrabad under Sections 498-A/406/34 of the Indian Penal Code, 1860 and under Section 4 of the Dowry Prohibition Act, 1961 and other persons named in the FIR. I also do not want the petitioner and other persons named in the FIR to be punished in relation thereto

I have made this statement voluntarily of my own accord without any duress, pressure or coercion from any quarter.

ANU MALHOTRA, J

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Statement of CW3 : Mohd. Riyaj, s/o Mohd. Gaffar, age 25 years, r/o Dhampur, Bijnor.

ON S.A.

I do stitching work at Dhampur since last 6/7 years. I had gone to Dubai for the work of stitching earlier and returned back. Now I do not intend to go back to Dubai.

I have made this statement voluntarily of my own accord without any duress, pressure or coercion from any quarter.

ANU MALHOTRA, J

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