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

+ **CRL.M.C. 1187/2018 & CRL.M.A. 4316/2018**

RAJ KUMAR & ORS

..... Petitioner

Through: Mr. Yesh Pal Singh & Mr.Naveen,
Advocates.

versus

THE STATE & ORS

..... Respondent

Through: Mr. Kamal Kr. Ghei, APP for State
with SI Rajender Kumar.
Ms. Taruna Arneja, Adv for R-2.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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08.03.2018

CRL.M.A. 4316/18 (Ex.)

Exemption allowed subject to all just exceptions.

CRL.M.C. 1187/2018

Vide the present petition, the petitioners seek quashing of the FIR no. 178/17, PS Civil Lines 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 petitioners and the respondent no. 2 in as much as the petitioners and the respondent no. 2 are living together now with the minor child named Sanjana aged 7 years born of the wedlock of the petitioner no. 1 and the respondent no. 2.

The Investigating Officer of the present case is present today in the Court and has identified the petitioner no. 1 Sh. Raj Kumar, petitioner no. 2 Smt. Ganga Sahai, petitioner no. 3 Smt. Brij Bala,

petitioner no. 4 Smt Hem Lata @ Rekha and petitioner no. 5 Suman as being the five accused arrayed in FIR No.178/2013, PS Civil Lines under Sections 498-A/406/34 of the Indian Penal Code, 1860. He has stated that the respondent no. 5 Suman was not charge sheeted. He has also identified the respondent no. 2, Ms. Rani being the complainant of the said FIR present in court today. The proof of identity of the petitioner nos. 1 to 5 and of the respondent no. 2 in the form of their Aadhar Cards have been produced in original, photocopies of which are on the record as Ex. CW1/A to Ex. CW1/F 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 as bearing her signatures thereon at points A & B. She has also testified to the effect that the Memorandum of Understanding dated 10.01.2018 arrived at between her and the petitioner no. 1 bears her signatures thereon at point A on each page thereof on Ex. CW2/B and she has signed both these documents voluntarily of her own accord without any duress, coercion or pressure from any quarter. She has further stated that she has a daughter aged 7 years named Sanjana and she is now living with the petitioners no. 1 to 5 along with her daughter since the last 2 years and she wants to continue to live with the petitioner no. 1 with her daughter and thus she does not oppose the prayer made by the petitioners seeking quashing of the FIR No.178/2013, PS Civil Lines under Sections 498-A/406/34 of the Indian Penal Code, 1860 nor does she want them to be punished in relation thereto. She has further stated that there are now no problems

between her and the petitioners. She has testified to the effect that she has studied till standard 12th and she is a house wife and she has made her statement voluntarily of her own accord without any duress, pressure or coercion from any quarter.

On behalf of the State, there is no opposition to the prayer made by the petitioners seeking quashing of the FIR in question and all consequential proceedings emanating therefrom.

In view of the settlement arrived at between the parties and in view of the statement made by the respondent no. 2 indicating that the petitioners and the respondent no. 2 are living together peacefully and the respondent no.2 has stated that she wants to continue to live together with the petitioner No.1 and her daughter, for maintenance of peace and harmony between the petitioners and the respondent no. 2 and for the well being of the respondent no.2 and the minor child, 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.178/2013, under Sections 498-A/406/34 of the Indian Penal Code, 1860, PS Civil Lines and all consequential proceedings emanating therefrom is allowed and thus FIR No.178/2013, under Sections 498-A/406/34 of the Indian Penal Code, 1860, PS Civil Lines and all consequential proceedings emanating therefrom against the the

petitioner no. 1 Sh. Raj Kumar, petitioner no. 2 Smt. Ganga Sahai,
petitioner no. 3 Smt. Brij Bala, petitioner no. 4 Smt Hem Lata @
Rekha and petitioner no. 5 Suman are quashed.

The petition is disposed of.

ANU MALHOTRA, J

MARCH 08, 2018
NC

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CW-1 SI Rajender Singh, Police Station Civil Lines, presently posted at Security, Delhi.

ON S.A.

I identify the petitioner no. 1 Sh. Raj Kumar, petitioner no. 2 Smt. Ganga Sahai, petitioner no. 3 Smt. Brij Bala, petitioner no. 4 Smt Hem Lata @ Rekha and petitioner no. 5 Suman as being the five accused arrayed in FIR No.178/2013, under Sections 498-A/406/34 of the Indian Penal Code, 1860, PS Civil Lines. The respondent no. 5 Suman was not charge sheeted. I also identify the respondent no. 2, Ms. Rani being the complainant of the said FIR present in court today. The proof of identity of the petitioner nos. 1 to 5 and of the respondent no. 2 in the form of photocopies of their Aadhar Cards are on the record as Ex. CW1/A to Ex. CW1/F respectively. (Original seen and returned).

RO & AC
MARCH 08, 2018.

ANU MALHOTRA, J

Item No. 32

CRL.M.C. 1187/2018

RAJ KUMAR & ORS. Vs. STATE & ORS.

Statement of CW2 : Ms. Rani, w/o Raj Kumar, d/o Shri Prem Chand, aged 27 years, r/o C-142, C-Block, Pahadi Kusumpur, South West Delhi.

ON S.A.

The address A-31, Aruna Nagar, Majna Ka Tila, Civil Lines, North Delhi is my parental address. My affidavit annexed to the petition bears my signatures thereon at points-A & B on Ex.CW2/A. The Memorandum of Understanding dated 10.01.2018 arrived at between me and the petitioner no. 1 bears my signatures thereon at point A on each page thereof on Ex. CW2/B and I have signed both these documents voluntarily of my own accord without any duress, coercion or pressure from any quarter. I have a daughter aged 7 years named Sanjana and I am living with the petitioners no. 1 to 5 along with my daughter since last 2 years and I want to continue to live with the petitioner no. 1 with my daughter and thus I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.178/2013, PS Civil Lines under Sections 498-A/406/34 of the Indian Penal Code, 1860 nor do I want them to be punished in relation thereto.

There are now no problems between me and the petitioner. I have studied till standard 12th and I am a house wife.

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 08, 2018