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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 1336/2018
SHRI RAVINDER SARASWAT Petitioner
Through: Mr. Akshay Kumar, Adv.

versus

THE STATE & ANR Respondent
Through: Mr. Sanjeev Sabharwal, APP for
State with Inspr. Sanjay Sinha, SHO,
PS Jaitpur & SI Ishwar Singh, PS
Jaitpur.
R-2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **15.03.2018**

Vide the present petition, the petitioner seeks quashing of FIR No.531/2015, registered at PS Jait Pur, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom submitting to the effect that the petitioner and the respondent no.2 have arrived at a settlement pursuant to the settlement dated 11.03.2016 arrived at the Delhi Mediation Centre, Saket Court, New Delhi.

The Investigating Officer of the case present today in Court has identified the petitioner Shri Ravinder Saraswat, s/o Shri Ramdutt Saraswat as being the accused arrayed in FIR No.531/2015, registered at PS Jait Pur, under Sections 498A/406/34 Indian Penal Code, 1860 and has also identified the respondent no.2 Ms. Anjana Saraswat present today in Court as being the complainant thereof and further states that there was one other person

Mr. Ramdutt Saraswat also arrayed as an accused, however the proceedings against him have been abated in view of the factum of his demise vide order dated 20.09.2017 in CC No. 96852/2016 of the Court of MM-03 (Mahila Court), SED, New Delhi in relation to the present FIR and the certified copy of the said order is on the record as Ex. CW1/A. The proofs of identity of the petitioner in the form of photocopy of his Aadhar Cards and of the respondent no. 2 in the form of photocopy of her Election Commission I-Card are on the record as Ex. CW1/B to Ex. CW1/C respectively, originals of which have been 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/C and has further testified to the effect that she has also signed the mediation settlement dated 11.03.2016 arrived at the Mediation Centre, Saket Court, New Delhi, certified copy of which is on the record 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 the marriage between her and the petitioner has been dissolved vide decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 28.08.2017 of the Court of the Principal Judge, Family Court, South-East, Saket Courts, New Delhi in HMA No. 478/2017, copy of which is on the record as Ex. CW2/A. In reply to a specific Court query the respondent no.2 submits that she does not oppose the prayer made by the petitioner seeking quashing of FIR in question.

Learned APP for the State submits that in the circumstances of the

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case, there is no opposition to the prayer made by the petitioner seeking quashing of the FIR in question.

In view of the deposition of the respondent no.2 and the level of her education, there is no reason to disbelieve her statement that she has arrived at a settlement with the petitioner voluntarily of her own accord without any duress, coercion or pressure from any quarter and as the FIR in question emanates from a matrimonial discord between the petitioner and the respondent no.2 which matrimonial discord has since been resolved vide dissolution of marriage between the petitioner and the respondent no.2 vide a decree of divorce through mutual consent as stated hereinabove, all claims between the petitioner and the respondent no.2 having been settled and as especially stated by the respondent no.2 that their ways are separate now 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 for maintenance of peace and harmony between the petitioner and the respondent no.2, 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

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*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

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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)

In view thereof the FIR No. 531/2015, registered at PS Jait Pur, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner are quashed.

ANU MALHOTRA, J

MARCH 15, 2018

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SHRI RAVINDER SARASWAT

Vs. THE STATE & ANR

Statement of CW1 : SI Ishar Singh, PS Jaitpur, Delhi.

ON S.A.

I identify the petitioner Shri Ravinder Saraswat, s/o Shri Anjana Saraswat as being the accused arrayed in FIR No.531/2015, registered at PS Jait Pur, under Sections 498A/406/34 Indian Penal Code, 1860. I also identify the respondent no.2 Ms. Anjana Saraswat present today in Court as being the complainant thereof. As per the FIR there was one other person Mr. Ramdutt Saraswat also arrayed as an accused. Vide proceedings dated 20.09.2017 in CC No. 96852/2016 of the Court of MM-03 (Mahila Court), SED, New Delhi in relation to the present FIR, proceedings against Mr. Ramdutt Saraswat have been abated in view of the factum of his demise, certified copy of the said order is on the record as Ex. CW1/A. The proofs of identity of the petitioner in the form of photocopy of his Aadhar Cards and of the respondent no. 2 in the form of photocopy of her Election Commission I-Card are on the record as Ex. CW1/B to Ex. CW1/C respectively. (Originals seen and returned.)

ANU MALHOTRA, J

RO & AC

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SHRI RAVINDER SARASWAT

Vs. THE STATE & ANR

Statement of CW2 : Smt. Anjana Saraswat, d/o Shri Ramveer Saraswat, aged 28 years, r/o 398/5, Ekta Vihar, Meethapur, Badarpur, New Delhi.

ON S.A.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.531/2015, registered at PS Jait Pur, under Sections 498A/406/34 Indian Penal Code, 1860 nor do I want the petitioner to be punished in relation thereto in view of the settlement arrived at between me and the petitioner.

The marriage between me and the petitioner has been dissolved vide decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 28.08.2017 of the Court of the Principal Judge, Family Court, South-East, Saket Courts, New Delhi in HMA No. 478/2017, copy of which is on the record as Ex. CW2/A . There is no child born of the wedlock between me and the petitioner.

In terms of the settlement dated 11.03.2016 arrived at between me and the petitioner at the Mediation Centre, Saket Court, New Delhi, copy of which bears my signature thereon on each page at point-A thereof on Ex. CW2/B, a sum of Rs. 2 lacs was to be paid to me by the petitioner, which entire amount has since been received by me. There are no claims of mine left against the petitioner and we have separated our ways now.

My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/C, which I have signed voluntarily of my own

accord without any duress, pressure or coercion from any quarter.

I am a graduate.

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 15, 2018**