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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1213/2018 & CRL.M.A. 4441/2018**

MOHD. ARIF & ORS Petitioner
Through: Mr. T. K. Mukherjee, Adv.

versus

STATE OF NCT OF DELHI & ANR Respondent
Through: Mr. Sanjeev Sabharwal, APP for
State with SI Naveen Kumar, PS
Seelam Pur.
Mr. M.S. Rawat, Adv. for R-2.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **09.03.2018**

CRL.M.A. 4441/2018(Exemption)

Exemption allowed, subject to just exceptions.

CRL.M.C. 1213/2018

Vide the present petition, the petitioner seeks quashing of FIR No. 561/2014, registered at PS Seelampur, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom submitting to the effect that the petitioners and the respondent no.2 have arrived at a settlement and pursuant to the same the petitioner no.1 and the respondent no.2 are living together without any problem now and intend to live together. The averments made in the petition are to the effect that that petitioner no.1 and the respondent no.2 are living together at the parental home of the respondent no.2 and the petitioner nos. 2 to 5 are living separately.

The Investigating Officer of the case present today in Court has identified the petitioner no. 1 Mohd. Arif, s/o late Mohd. Hasin, petitioner no.2 Smt. Munni Jahan, w/o late Mohd. Hasin, petitioner no.3 Smt. Sitara, w/o late Shri Kamruddin, petitioner no. 4 Smt. Salma Begam, d/o Late Mohd. Hasin and petitioner no.5 Smt. Sitara, d/o late Mohd. Hasin as being the accused arrayed in FIR No. 561/2014, registered at PS Seelampur, under Sections 498A/406/34 Indian Penal Code, 1860 and has also identified the respondent no.2 Ms. Yasmeen present today in Court as being the complainant thereof. The proofs 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, 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/A and has further testified to having signed the mediation settlement dated 07.09.2017 arrived at between her and the petitioners at the Delhi Mediation Centre, KKD Courts, Delhi as Ex. CW2/B voluntarily of her own accord without any duress or coercion from any quarter. The respondent no.2 has categorically testified to the effect that she is living without any problem with the petitioner no.1 at the parental home with her daughter and she intends to live with the petitioner no.1 and that she does not want the continuation of the proceedings any further in relation to the FIR No. 561/2014, registered at PS Seelampur, under Sections 498A/406/34 Indian Penal Code, 1860 and thus does not oppose the prayer made by the petitioners seeking quashing thereof and all consequential proceedings emanating therefrom.

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.

In view of the deposition of the respondent no.2, 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 the factum that the petitioner no.1 and the respondent no.2 are living together with their child at the parental home of the respondent no.2 and as testified by the respondent no.2 that there are no problem now between her and the petitioners and taking into account the non-opposition on behalf of the State, for maintenance of peace and harmony between the petitioners and the respondent no.2, 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)

FIR No. 561/2014, registered at PS Seelampur, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners are thus quashed.

The petition is disposed of.

ANU MALHOTRA, J

MARCH 09, 2018

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