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

+ **CRL.M.C. 1370/2018 & CRL.M.A. 4988/2018**

RAJ KUMAR & ANR

..... Petitioner

Through Ms. Deepa Agarwal, Adv. with
petitioners in person.

versus

THE STATE GOVT OF NCT OF DELHI

..... Respondent

Through Mr. Sanjeev Sabharwal, APP for State
with SI Ramesh Kumar PS Sultan
Puri.

R2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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22.03.2018

CRL.M.A. 4988/2018

CRL.M.A. 4988/2018 is an application filed on behalf of the petitioner seeking exemption from filing certified copies of the annexures. The same is allowed, subject to just exceptions.

The application is disposed of.

CRL.M.C. 1370/2018

Vide the present petition, the petitioner no. 1 Raj Kumar s/o Sh. Tarsam Kumar and the petitioner no. 2 Smt. Satya w/o Sh. Tarsam Kumar seek quashing of FIR No. 921/14, registered at PS Sultan Puri, under Section 498A/406/34 of the Indian Penal Code, 1860 submitting to the effect that a settlement has been arrived at between the parties and pursuant to the mediation settlement dated 11.08.2016 arrived at between the respondent

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no.2 and the petitioners and pursuant thereto a sum of Rs.1,25,000/- was paid by the petitioners to the respondent no. 2 towards all her claims and the marriage between the respondent no. 2 and the petitioner no. 1 has been dissolved vide a decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 03.07.2017 in HMA Petitioner No. 957/17 of the Court of the Judge Family Court, (North-West), Rohini, Delhi.

The Investigating Officer of the case present today in Court has identified the petitioner no. 1 Raj Kumar s/o Sh. Tarsam Kumar and the petitioner no. 2 Smt. Satya w/o Sh. Tarsam Kumar as being the accused in relation to the FIR No. 921/14, registered at PS Sultan Puri, under Section 498A/406/34 of the Indian Penal Code, 1860. He has also identified the respondent no. 2 Neeta Saini d/o Sh. Surendra present today in the court i.e. the complainant of the said FIR. The proof of the identity of the petitioners and of the respondent no. 2 in the form of photocopies of their Election Commission Identity Card produced by them are Ex.CW1/A 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 voluntarily of her own accord without any duress or coercion from any quarter. She has further testified to having signed the mediation settlement arrived at between her and the petitioners, which she stated she has signed voluntarily, the certified copy is on record as Ex.CW2/B and pursuant to which she has received a sum of Rs.1,25,000/- from the petitioners and there

are no claims of hers are left against the petitioners. The respondent no. 2 submits that there is no child of the wedlock between her and the petitioner no. 1 and the said marriage has been dissolved vide a decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 03.07.2017 in HMA Petitioner No. 957/17 of the Court of the Judge Family Court, (North-West), Rohini, Delhi, the certified copy of which is on the record as Ex.CW2/A. She has further stated that she does not oppose the prayer made by the petitioners seeking quashing of the FIR No. 921/14, registered at PS Sultan Puri, under Section 498A/406/34 of the Indian Penal Code, 1860 nor does she want them to be punished in relation thereto. She has submitted that she is a graduate and she works as an Office Assistant and that she has made this statement voluntarily of her own accord without any duress or coercion from any quarter.

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 settlement arrived at between the parties.

In view of the deposition of the respondent no.2 that a settlement has been arrived at between the parties and as there appears no reason to disbelieve her statement that she has made her statement voluntarily of her own accord without any duress, coercion or pressure from any quarter and the factum that the FIR No. 921/14, registered at PS Sultan Puri, under Section 498A/406/34 of the Indian Penal Code, 1860 is apparently registered on the basis of a matrimonial discord between the petitioner no. 1 and the

respondent no. 2 which has since been dissolved vide a decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 03.07.2017 in HMA Petitioner No. 957/17 of the Court of the Judge Family Court, (North-West), Rohini, Delhi and that there is no child of the wedlock between the respondent no. 2 and the petitioner no. 1 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 and for the well being of the 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 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)

it is considered appropriate to allow the prayer made by the petitioner seeking quashing of FIR No. 921/14, registered at PS Sultan Puri, under Section 498A/406/34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner. In view thereof the FIR No. 921/14, registered at PS Sultan Puri, under Section 498A/406/34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner no. 1 Raj Kumar s/o Sh. Tarsam Kumar and the petitioner no. 2 Smt. Satya w/o Sh. Tarsam Kumar are quashed.

The petition is disposed of.

Copy of the order be given *Dasti*, as prayed.

ANU MALHOTRA, J

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RAJ KUMAR & ANR versus THE STATE GOVT OF NCT OF DELHI

Statement of CW1 : SI Ramesh Kumar, PS Sultan Puri, Delhi.

ON S.A.

I identify the petitioner no. 1 Raj Kumar s/o Sh. Tarsam Kumar and the petitioner no. 2 Smt. Satya w/o Sh. Tarsam Kumar as being the accused in relation to the FIR No. 921/14, registered at PS Sultan Puri, under Section 498A/406/34 of the Indian Penal Code, 1860. I also identify the respondent no. 2 Neeta Saini d/o Sh. Surendra present today in the court i.e. the complainant of the said FIR. The proof of the identity of the petitioners and of the respondent no. 2 in the form of photocopies of their Election Commission Identity Card produced by them are Ex.CW1/A to Ex. CW1/C respectively (original seen and returned).

**RO & AC
MARCH 22, 2018/MK**

ANU MALHOTRA, J

Statement of CW2 : Neeta Saini d/o Sh. Surendra, aged 28 years r/o H. No. 174A, Block-E, Rathi Market, Dharamshala, Krishna Nagar, Delhi.

ON S.A.

I do not oppose the prayer made by the petitioner no. 1 Raj Kumar s/o Sh. Tarsam Kumar and the petitioner no. 2 Smt. Satya w/o Sh. Tarsam Kumar seeking quashing of the FIR No. 921/14, registered at PS Sultan Puri, under Section 498A/406/34 of the Indian Penal Code, 1860 nor I do want them to be punished in relation thereto. There is no child of the wedlock between me and the petitioner no. 1 and the said marriage has been dissolved vide a decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 03.07.2017 in HMA Petitioner No. 957/17 of the Court of the Judge Family Court, (North-West), Rohini, Delhi, the certified copy of which is on the record as Ex.CW2/A. Pursuant to the mediation settlement arrived at between me and the petitioners, which I have signed voluntarily of which my signatures are visible thereon at point-A on each page thereof, the certified copy is on record as Ex.CW2/B. I have received a sum of Rs.1,25,000/- from the petitioners and there are no claims of mine left against the petitioners. My affidavit annexed to the petition bears my signature thereon at points-A and B on Ex.CW2/C, which I have signed voluntarily. I am a graduate and I am working as Office Assistant. I have made this statement voluntarily of

my own accord without any duress or coercion from any quarter.

RO & AC
MARCH 22, 2018/MK

ANU MALHOTRA, J