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

+ **CRL.M.C. 1934/2018 & CRL.M.A. 6876/2018**

ANIL KUMAR & ORS

..... Petitioner

Through

Petitioners with learned counsel for
the petitioners (appearance not given)

versus

STATE & ORS

..... Respondent

Through

Mr. Hirein Sharma, APP for State
with SI Sandeep Kumar PS
Mangolpuri.
R2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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17.04.2018

Vide the present petition, the petitioner no. 1 Anil Kumar s/o Sh. Chhedi Lal, the petitioner no. 2 Chhedi Lal s/o Late Sh. Mithai Lal, the petitioner no. 3 Smt. Sukh Mani w/o Sh. Chhedi Lal, the petitioner no. 4 Bablu s/o Sh. Chhedi Lal and the petitioner no. 5 Anita d/o Sh. Chhedi Lal seek quashing of FIR No. 258/12, registered at PS Mangol Puri, under Section 498A/406/34 of the Indian Penal Code, 1860 submitting to the effect that an amicable settlement has been arrived at between them.

The Investigating Officer of the case has identified the petitioners no. 1 to 5 as being the accused of the FIR in question and has also identified the respondent no. 2 as being the complainant thereof.

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The respondent no.2 in her examination on oath by the Court has affirmed the factum that the matter between the petitioners and the respondent no. 2 has settled and the marriage between her and the petitioner no. 1 has since been dissolved vide a decree of divorce dated 21.12.2013 of the Court of the Additional Principal Judge, Family Courts Rohini, Delhi in HMA No. 1492/13 under Sections 13B(2) of the Hindu Marriage Act, 1955, copy of which is on the record as Ex.CW2/D and has also testified to the effect that in terms of the settlement arrived at between them, a total sum of Rs.3,25,000/- was payable to her by the petitioners of which Rs.2,25,000/- have already been received by her and the balance sum of Rs.1,00,000/- has been handed over to her by the petitioners vide two D.D. No. 378221 dated 22.01.2018 drawn on Union Bank for a sum of Rs.5,000/- and D.D. No. 406509 dated 19.01.2018 drawn on Syndicate Bank for a sum of Rs.95,000/- photocopy of which are on record as Ex.CW2/B & Ex.CW2/C respectively and now there are no claims of hers left against the petitioners. She has stated that the minor child born of the wedlock between her and the petitioner no. 1 is in her custody and shall continue to remain in her custody. 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 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 petitioners seeking quashing of the FIR in question in view of the settlement arrived at between the parties.

There appears no reason to disbelieve that the respondent no. 2 has made her statement voluntarily of her own accord without any duress, coercion or pressure from any quarter taking into account the factum that she is well educated and she is doing masters in sociology. Apparently, the FIR has been registered on a matrimonial discord between the petitioner no.1 and the respondent no. 2 which has been resolved between the parties vide a decree of divorce dated 21.12.2013 of the Court of the Additional Principal Judge, Family Courts Rohini, Delhi in HMA No. 1492/13 under Sections 13B(2) of the Hindu Marriage Act, 1955, copy of which is on the record as Ex.CW2/D., It is considered essential for maintenance of peace and harmony between the petitioners and the respondent no.2 and for the well being of the minor child born of the wedlock of the petitioner no. 1 and the respondent no. 2, 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.]”

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. 258/12, registered at PS Mangol 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. 258/12, registered at PS Mangol Puri, under Section 498A/406/34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner no. 1 Anil Kumar s/o Sh. Chhedi Lal, the petitioner no. 2 Chhedi Lal s/o Late Sh. Mithai Lal, the petitioner no. 3 Smt. Sukh Mani w/o Sh. Chhedi Lal, the

petitioner no. 4 Bablu s/o Sh. Chhedi Lal and the petitioner no. 5 Anita d/o Sh. Chhedi Lal are quashed.

The petition is disposed of.

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ANIL KUMAR & ORS versus STATE & ORS

Statement of CW1 : SI Sandeep Kumar, PS Mangolpuri., Delhi.

ON S.A.

I identify the petitioner no. 1 Anil Kumar s/o Sh. Chhedi Lal, the petitioner no. 2 Chhedi Lal s/o Late Sh. Mithai Lal, the petitioner no. 3 Smt. Sukh Mani w/o Sh. Chhedi Lal, the petitioner no. 4 Bablu s/o Sh. Chhedi Lal and the petitioner no. 5 Anita d/o Sh. Chhedi Lal as being the persons named in the FIR No. 258/12, registered at PS Mangol Puri, under Section 498A/406/34 of the Indian Penal Code, 1860. I also identify the respondent no. 2 as being the complainant of the said FIR. The proof of identity of the petitioners no. 1 to 4 and of the respondent no. 2 are on record in the form of photocopies produced by them as Ex.CW1/A to Ex.CW1/D & Ex.CW1/F (originals seen and returned). I identify the petitioner no. 5 Ms. Anita and the proof of identity of the petitioner no. 5 is on record in the form of photocopy of her Aadhar Card as Ex.CW1/E (original seen and returned).

**RO & AC
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ANU MALHOTRA, J

**Statement of CW2 : Mamta d/o Sh. Satya Narayan Soni, aged 30 years
r/o M-921, mangol Puri, Delhi.**

ON S.A.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No. 258/12, registered at PS Mangol Puri, under Section 498A/406/34 of the Indian Penal Code, 1860 nor I do want the petitioners to be punished in relation thereto. My affidavit annexed to the petition bears my signature thereon at points-A and B on Ex.CW2/A. In terms of the settlement arrived at between me and the petitioners, a total sum of Rs.3,25,000/- was payable to me by the petitioners of which Rs.2,25,000/- have already been received by me and the balance sum of Rs.1,00,000/- has been handed over to me by the petitioners vide two D.D. No. 378221 dated 22.01.2018 drawn on Union Bank for a sum of Rs.5,000/- and D.D. No. 406509 dated 19.01.2018 drawn on Syndicate Bank for a sum of Rs.95,000/- photocopy of which are on record as Ex.CW2/B & Ex.CW2/C respectively. Now there are no claims of mine left against the petitioners. The minor child born of the wedlock between me and the petitioner no. 1 is in my custody and shall continue to remain in my custody. The marriage between me and the petitioner no. 1 has since been dissolved vide a decree of divorce dated 21.12.2013 of the Court of the Additional Principal Judge, Family Courts Rohini, Delhi in HMA No. 1492/13 under Sections 13B(2) of the Hindu Marriage Act, 1955, copy of which is on the record as Ex.CW2/D. I am pursuing my Masters in Sociology. I have made this statement voluntarily of

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

RO & AC
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ANU MALHOTRA, J