

\$~24

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

+ **CRL.M.C. 1319/2018 & CRL.M.A. 4806/2018**

**VIKAS MITTAL & ORS**

..... Petitioner

Through

Mr. Amarjeet, Adv. with petitioners  
in person.

versus

**THE STATE GOVT OF NCT OF DELHI & ORS..... Respondent**

Through

Mr. Kewal Singh Ahuja, APP for  
State with SI Mukesh Kumar PS  
Binda Pur.

Mr. J.K. Dhingra, Ms. Annu Arora,  
Advs. for R2 with R2 in person.

**CORAM:**

**HON'BLE MS. JUSTICE ANU MALHOTRA**

**ORDER**

%

**15.03.2018**

Vide the present petition, the petitioner seeks quashing of FIR No. 196/12, registered at PS Binda Pur, under Sections 498A/406/506/323/494/34 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 and all disputes between them have been amicably resolved and the marriage between him and the respondent no. 2 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 06.02.2018 of the Court of the Principal Judge, Family Court, South-West District, Dwarka, New Delhi in HMA No. 321/18, photocopy of which is on the record as Ex. CW2/F.

***CRL.M.C. 1319/2018***

***page 1 of 7***

The Investigating Officer of the case present today in Court has identified the petitioner no. 1 Vikas Mittal s/o Mr. Vinod Mittal, the petitioner no. 2 Vinod Mittal s/o Late Sh. S.C. Mittal, the petitioner no. 3 Smt. Dhanpati Mittal w/o Sh. Vinod Mittal as being the accused in relation to the FIR No. 196/12, registered at PS Binda Pur, under Sections 498A/406/506/323/494/34 of the Indian Penal Code, 1860. He has also identified the respondent no. 2 Ms. Aruna Mittal d/o Sh. Pawan Kumar present today in the court i.e. the complainant of the said FIR. It has also been stated by the Investigating Officer that another person named as accused Nisha Mittal in the said FIR was not charge-sheeted. The proof of the identity of the petitioners no. 1 to 3 and of the respondent no. 2 in the form of photocopies of documents produced by them are Ex. CW1/A to Ex. CW1/D respectively.

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/D voluntarily of her own accord without any duress or coercion from any quarter. She has also testified to having signed the Memorandum of Understanding / Settlement dated 10.10.2017 thereon at points-A on Ex.CW2/E. She has further testified that the marriage between her 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 06.02.2018 of the Court of the Principal Judge, Family Court, South-West District, Dwarka, New Delhi in HMA No. 321/18, photocopy of which is on the record as Ex.CW2/F. *Inter alia* she stated that two children

born of the wedlock between her and the petitioner no. 1 are in her custody and the children are residing in a house which the petitioners have given bearing no. RZ-77, Old Plot No. 77 to 80, area measuring 200 sq. yards (43' x 42') with all its roof right, out of Khasra No. 8/3, 8/4, 8/8, khatta khatoni No. 63/45, situated in the area of Village Matiala and the colony known as Jain Park, Uttam Nagar, New Delhi. She has further testified that pursuant to the said settlement, a total sum of Rs.35 lacs was to be paid to her by the petitioners of which a sum of Rs.25,50,209/- has already been received by her and a total sum of Rs.9,49,791/- is due from the petitioner which they have to pay today and that the said amount has been handed over to her by the petitioners today vide cheques bearing no. 623201, 623203 and 623202 for Rs.3,49,791, Rs.3,00,000/- and Rs.3,00,000/- all dated 14.03.2018 receptively all in her name as Aruna Mittal in which name she has an account all drawn on the State Bank of India, photocopies of which are on record Ex. CW1/A to Ex. CW1/C respectively. She has further stated that she does not oppose the prayer made by the petitioners seeking quashing of the FIR No. 196/12, registered at PS Binda Pur, under Sections 498A/406/506/323/494/34 of the Indian Penal Code, 1860 in view of the settlement arrived at between the parties nor does she seek that the petitioners be punished in relation thereto. She has studied till standard 12<sup>th</sup>.

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 petitioners and the respondent no.2.

In view of the deposition of the respondent no.2 and the factum of the petitioners and the respondent no. 2 by the Investigating Officer and the factum that 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 06.02.2018 of the Court of the Principal Judge, Family Court, South-West District, Dwarka, New Delhi in HMA No. 321/18, there being 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 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 her and two children, 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. 196/12, registered at PS Binda Pur, under Sections 498A/406/506/323/494/34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner. In view thereof the FIR No. 196/12, registered at PS Binda Pur, under Sections 498A/406/506/323/494/34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner no. 1 Vikas Mittal s/o Mr. Vinod Mittal, the petitioner no. 2 Vinod Mittal s/o Late

*CRL.M.C. 1319/2018*

Sh. S.C. Mittal, the petitioner no. 3 Smt. Dhanpati Mittal w/o Sh. Vinod Mittal are quashed.

The petition is disposed of.

**ANU MALHOTRA, J**

**MARCH 15, 2018/MK**

24

CRL.M.C. 1319/2018

VIKAS MITTAL & ORS versus

THE STATE GOVT OF NCT OF DELHI & ORS

**Statement of CW1 : SI Mukesh Kumar PS Binda Pur Delhi.**

**ON S.A.**

I identify the petitioner no. 1 Vikas Mittal s/o Mr. Vinod Mittal, the petitioner no. 2 Vinod Mittal s/o Late Sh. S.C. Mittal, the petitioner no. 3 Smt. Dhanpati Mittal w/o Sh. Vinod Mittal as being the accused in relation to the FIR No. 196/12, registered at PS Binda Pur, under Sections 498A/406/506/323/494/34 of the Indian Penal Code, 1860. I also identify the respondent no. 2 Ms. Aruna Mittal d/o Sh. Pawan Kumar present today in the court i.e. the complainant of the said FIR. Another person named as accused Nisha Mittal in the said FIR was not charge-sheeted. The proof of the identity of the petitioners no. 1 to 3 and of the respondent no. 2 in the form of photocopies of documents produced by them are Ex. CW1/A to Ex. CW1/D respectively (original seen and returned).

**RO & AC**  
**MARCH 15, 2018/MK**

**ANU MALHOTRA, J**

**Statement of CW2 : Ms. Aruna Mittal d/o Sh. Pawan Kumar, aged 41 years r/o RZ-77, Near Moon Light Public School, Jain Park, Uttam Nagar, West, Delhi, New Delhi.**

**ON S.A.**

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No. 196/12, registered at PS Binda Pur, under Sections 498A/406/506/323/494/34 of the Indian Penal Code, 1860 in view of the settlement arrived at between me and the petitioners pursuant to which the petitioners have given a house bearing no. RZ-77, Old Plot No. 77 to 80, area measuring 200 sq. yards (43' x 42') with all its roof right, out of Khasra No. 8/3, 8/4, 8/8, khatta khatoni No. 63/45, situated in the area of Village Matiala and the colony known as Jain Park, Uttam Nagar, New Delhi and the two minor children are in my custody. Pursuant to the said settlement, a total sum of Rs.35 lacs was to be paid to me by the petitioners of which a sum of Rs.25,50,209/- has already been received by her and a total sum of Rs.9,49,791/- is due from the petitioner which they have to pay today. The said amount has been handed over to me by the petitioners today vide cheques bearing no. 623201, 623203 and 623202 for Rs.3,49,791, Rs.3,00,000/- and Rs.3,00,000/- all dated 14.03.2018 receptively all in my name as Aruna Mittal in which name I have an account all drawn on the State Bank of India, photocopies of which are on record Ex. CW1/A to Ex. CW1/C respectively. 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/D. The Memorandum of Understanding / Settlement dated 10.10.2017 also bears my signatures thereon at points-A on Ex.CW2/E. The marriage between me 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 06.02.2018 of the Court of the Principal Judge, Family Court, South-West District, Dwarka, New Delhi in HMA No. 321/18, photocopy of which is on the record as Ex. CW2/F. I have studied till standard 12<sup>th</sup>. I have made this statement voluntarily of my own accord without any duress or coercion from any quarter.

**RO & AC**  
**MARCH 15, 2018/MK**

**ANU MALHOTRA, J**