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

+ **CRL.M.C. 1324/2018**

MAKUL AGGARWAL & ORS

..... Petitioner

Through Mr. Salekh Chand Yadav, Adv. with
petitioners in person.

versus

GOVT OF NCT OF DELHI & ANR

..... Respondent

Through Mr. Kewal Singh Ahuja, APP for
State with SI Yugdutt PS K.N. Katju
Marg.

Mr. Anuj Aggarwal, Mr. Viveck
Agarwal, Advs. for R2 with R2 in
person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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15.03.2018

Vide the present petition, the petitioner seeks quashing of FIR No. 74/16, registered at PS K.N. Katju Marg, under Sections 498A/406/34 of the Indian Penal Code, 1860 submitting to the effect that a settlement has been arrived at between the petitioner and the respondent no.2 and the marriage between the petitioner no.1 and the respondent no. 2 has been dissolved vide a decree of divorce through mutual consent and all disputes between the parties have been settled amicably.

The Investigating Officer of the case present today in Court has identified the petitioner no. 1 Makul Aggarwal s/o Sh. Sunil Aggarwal, the petitioner no. 2 Sunil Aggarwal s/o Sh. Chaman Prakash, the petitioner no. 3

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Smt. Manju Aggarwal w/o Sh. Sunil Aggarwal, the petitioner no. 4 Dr. Shikha Aggarwal d/o Sh. Sunil Aggarwal as being the accused arrayed in the FIR No. 74/16, registered at PS K.N. Katju Marg, under Sections 498A/406/34 of the Indian Penal Code, 1860. He has also identified the respondent no. 2 Ms. Soni d/o Sh. Rashpal Singh present today in the court i.e. the complainant of the said FIR.

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 and that she does not oppose the prayer made by the petitioners seeking quashing of the FIR No. 74/16, registered at PS K.N. Katju Marg, under Sections 498A/406/34 of the Indian Penal Code, 1860 nor does she seek that the petitioners be punished in relation thereto in view of the settlement arrived at between her and the petitioners. She has further testified to the effect that the marriage between her and the petitioner no.1 has been dissolved vide decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 21.08.2017 of the Court of the Principal Judge, Family Court, District North, Rohini Court, Delhi in HMA No. 1015/17, the certified copy of which is on the record as Ex.CW2/B and has stated that in terms of the settlement arrived at between her and the petitioners, a total sum of Rs.10 lakhs was to be paid to her by the petitioners of which a sum of Rs.7 lakhs has already been paid previously and a balance sum of Rs.3 lakhs has been handed over to her by the petitioners vide Banker's cheques bearing no. 083058 dated

12.03.2018 for a sum of Rs.30,000/-, bearing no. 083054 dated 09.03.2018 for a sum of Rs.35,000/-, bearing no. 683242 dated 08.03.2018 for a sum of Rs.30,000/-, bearing no. 683240 dated 08.03.2018 for a sum of Rs.30,000/-, bearing no. 683226 dated 07.03.2018 for a sum of Rs.35,000/-, bearing no. 683225 dated 07.03.2018 for a sum of Rs.35,000/-, bearing no. 083050 dated 07.03.2018 for a sum of Rs.35,000/-, bearing no. 683203 dated 06.03.2018 for a sum of Rs.35,000/- and bearing no. 683204 dated 06.03.2018 for a sum of Rs.35,000/- all in her favour all drawn on the State Bank of India, photocopies of which have been directed to be placed on record. She further stated that there are no claims of hers are left against the petitioners and there is no child of the wedlock between her and the petitioner no. 1. She stated that she is a graduate and that she is pursuing the course of Jewellery Designing.

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, 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 that all the claims between the parties have been settled, in view of the marriage between the respondent no. 2 and the petitioner no.1 has been dissolved vide decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated

21.08.2017 of the Court of the Principal Judge, Family Court, District North, Rohini Court, Delhi in HMA No. 1015/17, 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, 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. 74/16, registered at PS K.N. Katju Marg, under Sections 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. 74/16, registered at PS K.N. Katju Marg, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner no. 1 Makul Aggarwal s/o Sh. Sunil Aggarwal, the petitioner no. 2 Sunil Aggarwal s/o Sh. Chaman Prakash, the petitioner no. 3 Smt. Manju Aggarwal w/o Sh. Sunil Aggarwal, the petitioner no. 4 Dr. Shikha Aggarwal d/o Sh. Sunil Aggarwal are quashed.

The petition is disposed of.

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

ANU MALHOTRA, J

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MAKUL AGGARWAL & ORS versus

GOVT OF NCT OF DELHI & ANR

Statement of CW1 : ASI Yag Dutt, PS K.N. Katju Marg, Delhi.

ON S.A.

I identify the petitioner no. 1 Makul Aggarwal s/o Sh. Sunil Aggarwal, the petitioner no. 2 Sunil Aggarwal s/o Sh. Chaman Prakash, the petitioner no. 3 Smt. Manju Aggarwal w/o Sh. Sunil Aggarwal, the petitioner no. 4 Dr. Shikha Aggarwal d/o Sh. Sunil Aggarwal as being the accused in relation to the FIR No. 74/16, registered at PS K.N. Katju Marg, under Sections 498A/406/34 of the Indian Penal Code, 1860. I also identify the respondent no. 2 Ms. Soni d/o Sh. Rashpal Singh present today in the court i.e. the complainant of the said FIR. There are no other persons named as accused in the said FIR. The respondent no. 2 has produced her original Aadhar Card bearing no. 716173517120 (photocopy of the same be placed on record). The proof of the identity of the petitioners no. 1 to 4 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. Soni d/o Sh. Rashpal Singh, aged 26 years r/o
H. No. G-5/114, Sector – 16, Rohini, Delhi - 89.**

ON S.A.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No. 74/16, registered at PS K.N. Katju Marg, under Sections 498A/406/34 of the Indian Penal Code, 1860 nor I do seek that the petitioners be punished in relation thereto in view of the settlement arrived at between me and the petitioners. My affidavit annexed to the petition bears my signature thereon at points-A and B on Ex.CW2/A which I have signed voluntarily of my own accord without any duress, pressure or coercion from any quarter. The marriage between me and the petitioner no.1 has been dissolved vide decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 21.08.2017 of the Court of the Principal Judge, Family Court, District North, Rohini Court, Delhi in HMA No. 1015/17, the certified copy of which is on the record as Ex.CW2/B in view of the settlement arrived at between me. Pursuant to the said settlement, a total sum of Rs.10 lakhs was to be paid to me by the petitioners of which a sum of Rs.7 lakhs has already been paid previously and a balance sum of Rs.3 lakhs has been handed over to me by the petitioners vide Banker's cheques bearing no. 083058 dated 12.03.2018 for a sum of Rs.30,000/-, bearing no. 083054 dated 09.03.2018 for a sum of Rs.35,000/-, bearing no. 683242 dated 08.03.2018 for a sum of Rs.30,000/-,

bearing no. 683240 dated 08.03.2018 for a sum of Rs.30,000/-, bearing no. 683226 dated 07.03.2018 for a sum of Rs.35,000/-, bearing no. 683225 dated 07.03.2018 for a sum of Rs.35,000/-, bearing no. 083050 dated 07.03.2018 for a sum of Rs.35,000/-, bearing no. 683203 dated 06.03.2018 for a sum of Rs.35,000/- and bearing no. 683204 dated 06.03.2018 for a sum of Rs.35,000/- all in my favour all drawn on the State Bank of India (photocopy of the same be placed on record. There are no claims of mine are left against the petitioners. There is no child of the wedlock between me and the petitioner no. 1. I am a graduate and I am pursuing the course of Jewellery Designing. I have made this statement voluntarily of my own accord without any duress or coercion from any quarter.

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ANU MALHOTRA, J