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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 1429/2018 & CRL.M.A. 5196/2018
GAURAV & ORS Petitioner
Through: Mr. Ramnath Singh, Adv.

versus

GOVT OF NCT DELHI & ANR Respondent
Through: Mr. Kewal Singh Ahuja, APP for
State with SI Jaivind Kumar, PS
Kalyan Puri.
R-2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **20.03.2018**

CRL.M.A. 5196/2018(Exemption)

Exemption allowed, subject to just exceptions.

CRL.M.C. 1429/2018

Vide the present petition, the petitioner seeks quashing of FIR No.635/2014, registered at PS Kalyan Puri, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom submitting to the effect that a settlement has been arrived at between the parties at the National Lok Adalat on 11.02.2017 and all disputes between petitioners and the respondent no.2 have since been resolved.

The Investigating Officer of the case present today in Court has identified the petitioner no.1 Shri Gaurav, s/o Shri Parmanand, petitioner no.2 Shri Parmanand, s/o late Shri Tulsi Ram, petitioner no.3 Smt. Hardevi,

w/o Shri Parmanand, petitioner no.4 Shri Manoj, s/o Shri Parmanand, petitioner no.5 Ms. Anjali, d/o Shri Parmanand, petitioner no.6 Smt. Dewaki, w/o Shri Nihal Singh and petitioner no.7 Shri Ram Babu, s/o Shri Sri Pal as being the accused arrayed in FIR No.635/2014, registered at PS Kalyan Puri, under Sections 498A/406/34 Indian Penal Code, 1860 and has also identified the respondent no.2 Ms. Sushma Kushwaha present today in Court as being the complainant thereof. The proofs of identity of the petitioner nos. 1 to 7 in the form of photocopies of documents produced by them are on the record as Ex. CW1/A to Ex. CW1/G and of the respondent no. 2 in the form of photocopy of her Aadhar Card is on the record as Ex. CW2/A, 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/D voluntarily of her own accord without any duress or coercion from any quarter vide which she does not oppose the prayer made by the petitioners seeking quashing of FIR in question and also stated that all disputes between her and the petitioners have been settled before the National Lok Adalat on 11.02.2017, copy of which proceedings of the National Lok Adalat is on the record. The respondent no.2 has further testified to the effect that pursuant to the said settlement, a sum of Rs.3.40 lacs was to be paid to her by the petitioners, of which a sum of Rs. 2.40 lacs has been received by her previously and the balance sum of Rs.1 lac has been handed over to her by the petitioner today in Court in the form of a Demand Draft bearing no. 843078 dated 05.03.2018 in her favour drawn on Vijay Bank, copy of which is on the record as Ex. CW2/B and that there are no claims of hers left against the petitioners now. She has further stated 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 18.12.2017 of the Court of the Judge, Family Court, East District, KKD Courts, New Delhi in HMA No. 337/2017, copy of which is on the record as Ex. CW2/C and also stated that there is no child born of the wedlock between her and the petitioner no.1. The respondent no.2 has further stated that she has studied upto standard 8th and she has made her statement voluntarily.

Learned APP for the State submits that in view of the settlement arrived at between the parties, 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 appears 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 as apparently the FIR in question emanates from a matrimonial discord between the petitioner no.1 and the respondent no.2, which matrimonial discord has since been dissolved vide dissolution of the marriage between the petitioner no.1 and the respondent no.2 vide a decree of divorce through mutual consent and all the disputes between the petitioners and the respondent no.2 having been settled, there is no impediment to the quashing of FIR in question and thus 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)

in view thereof the FIR No.635/2014, registered at PS Kalyan Puri, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners are thus quashed.

ANU MALHOTRA, J

MARCH 20, 2018

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CRL.M.C. 1429/2018

GAURAV & ORS

Vs. GOVT OF NCT DELHI & ANR

Statement of CW1 : SI Jaivind Kumar, PS Kalyan Puri, Delhi.

ON S.A.

I identify the petitioner no.1 Shri Gaurav, s/o Shri Parmanand, petitioner no.2 Shri Parmanand, s/o late Shri Tulsi Ram, petitioner no.3 Smt. Hardevi, w/o Shri Parmanand, petitioner no.4 Shri Manoj, s/o Shri Parmanand, petitioner no.5 Ms. Anjali, d/o Shri Parmanand, petitioner no.6 Smt. Dewaki, w/o Shri Nihal Singh and petitioner no.7 SHri Ram Babu, s/o Shri Sri Pal as being the accused arrayed in FIR No.635/2014, registered at PS Kalyan Puri, under Sections 498A/406/34 Indian Penal Code, 1860. I also identify the respondent no.2 Ms. Sushma Kushwaha present today in Court as being the complainant thereof. The proofs of identity of the petitioner nos. 1 to 7 in the form of photocopies of documents produced by them are on the record as Ex. CW1/A to Ex. CW1/G and of the respondent no. 2 in the form of photocopy of her Aadhar Card is on the record as Ex. CW2/A. (Originals seen and returned.)

There are no other persons arrayed as accused in the said FIR.

ANU MALHOTRA, J

RO & AC

MARCH 20, 2018

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CRL.M.C. 1429/2018

GAURAV & ORS

Vs. GOVT OF NCT DELHI & ANR

Statement of CW2 : Smt. Sushma Kushwaha, d/o Shri Ved Prakash, aged 34 years, r/o 13/362 Trilok Puri, New Delhi.

ON S.A.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.635/2014, registered at PS Kalyan Puri, under Sections 498A/406/34 Indian Penal Code, 1860 nor do I want the petitioners to be punished in relation thereto.

I have brought my original Aadhar Card, copy of which is on the record as Ex. CW2/A.

A settlement has been arrived at between me and the petitioners at the National Lok Adalat on 11.02.2017 and pursuant to the same a sum of Rs.3.40 lacs was to be paid to me by the petitioners, of which a sum of Rs. 2.40 lacs has been received by me previously and the balance sum of Rs.1 lac has been handed over to me by the petitioner today in Court in the form of a Demand Draft bearing no. 843078 dated 05.03.2018 in my favour drawn on Vijay Bank, copy of which is on the record as Ex. CW2/B. There are no claims of mine left against the petitioners now.

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 18.12.2017 of the Court of the Judge, Family Court, East District, KKD Courts, New Delhi in HMA No. 337/2017, copy of which is on the record as Ex. CW2/C. There is no child born of the wedlock between me and the petitioner no.1

My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/D, which I have signed voluntarily of my own accord without any duress, pressure or coercion from any quarter.

I have studied upto standard 8th.

I have made this statement voluntarily of my own accord without any duress, pressure or coercion from any quarter.

ANU MALHOTRA, J

RO & AC
MARCH 20, 2018