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

+ **CRL.M.C. 1471/2018 & CRL.M.A. 5351/2018**

**HARISH KUMAR & ORS**

..... Petitioner

Through Mr. Pankaj Tanwar, Adv. with P1, P2,  
P4, P6 & P7 in person.

versus

**THE STATE ( GOVT OF NCT OF DELHI) & ANR..... Respondent**

Through Mr. Kewal Singh Ahuja, APP for  
State with Investigating Officer ASI  
Ashok Kumar PS Timarpur.

Mr. Nikhil Kapoor, Ms. Aishwarya  
Kamya Singh, Advs. for R2 with R2  
in person.

**CORAM:**

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

**ORDER**

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**10.04.2018**

The petitioners no. 3 & 8 are stated to be not present due to their old age reasons. The petitioner no. 5 is stated to be hospitalized.

The Investigating Officer has identified the petitioner no. 1 Harish Kumar s/o Sh. Bishan Pal Singh, the petitioner no. 2 Bishan Pal Singh s/o Sh. Ram Prasad, the petitioner no. 4 Yogesh Kumar s/o Sh. Bishan Pal Singh, the petitioner no. 6 Smt. Sunita Devi s/o Sh. Ram Kumar and the petitioner no. 7 Smt. Anita Devi w/o Sh. Yogesh Kumar present today in the Court and has also identified the photographs of the petitioners no. 3, 5 & 8 on the photocopies of their Aadhar Cards. The Investigating Officer has also identified the respondent no. 2 present today in the Court as being the

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complainant of the FIR in question. The proof of the petitioners and of the respondent no. 2 are on record in the form of photocopies of documents that have been produced as Ex.CW1/A & Ex.CW1/I (original seen and returned).

Vide the present petition, the petitioners seek quashing of FIR No. 465/16, PS Timarpur, under Sections 498A/406/34 of the Indian Penal Code, 1860 submitting to the effect that a settlement has since been arrived at between the parties and pursuant to the settlement arrived at the Delhi Mediation Centre, Tis Hazari Courts, Delhi and that the marriage between the respondent no. 2 and the petitioner no. 1 has since been dissolved vide a decree of divorce dated 22.12.2017 of the Court of the Principal Judge, Family Courts, Central District, THC, Delhi in HMA No. 1509/17 under Sections 13B(2) of the Hindu Marriage Act, 1955 and all claims have been settled.

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 and also testified to having signed the settlement arrived at in Delhi Mediation Centre, Tis Hazari Courts, Delhi, copy of which settlement agreement bears my signatures thereon at point-A on each page thereof is Ex.CW2/B. *Inter alia* she has stated that there is no child of the wedlock between the petitioner no. 1 and her and the marriage between the respondent no. 2 and the petitioner no. 1 has since been dissolved vide a decree of divorce dated 22.12.2017 of the Court of the Principal Judge, Family Courts, Central District, THC, Delhi in HMA No. 1509/17 under

Sections 13B(2) of the Hindu Marriage Act, 1955, certified copy of which is on record as Ex.CW2/A. The respondent no. 2 has further stated that in terms of the settlement, a total sum of Rs.9,40,000/- was payable to her by the petitioners of which Rs.7 lakhs have already been received by her and the balance sum of Rs.2,40,000/- has been handed over to her by the petitioners vide D.D. No. 196804 dated 15.01.2018 drawn on The Hongkong and Shanghai Banking Corporation Limited, photocopy of which is on the record as Ex.CW2/C. She has stated that there are now no claims of hers left against the petitioners and that she does not oppose the prayer made by the petitioners seeking quashing of the FIR No. 465/16, PS Timarpur, under Sections 498A/406/34 of the Indian Penal Code, 1860 nor does she want them to be punished in relation thereto. The respondent no. 2 is apparently well educated having done her Masters in Ceramic & Glass Design from NID Ahmedabad and she is working as an Architect with MES.

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.

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 22.12.2017 of the Court of the Principal Judge, Family Courts, Central District, THC, Delhi in HMA No. 1509/17 under Sections 13B(2) of the Hindu Marriage Act, 1955, certified copy of which is on record as Ex.CW2/A. 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 and that she does not oppose the prayer made by the petitioners seeking quashing of the FIR No. 465/16, PS Timarpur, under Sections 498A/406/34 of the Indian Penal Code, 1860, for maintenance of peace and harmony between the petitioners and the respondent no.2, 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. 465/16, PS Timarpur, 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. 465/16, PS Timarpur, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against The petitioner no. 1 Harish Kumar s/o Sh. Bishan Pal Singh, the petitioner no. 2 Bishan Pal Singh s/o Sh. Ram Prasad, the petitioner no. 3 Smt. Birmati Devi w/o Sh. B.P. Singh, the petitioner no. 4 Yogesh Kumar s/o Sh. Bishan Pal Singh, the petitioner no. 5 Ms. Usha Singh d/o Sh. Bishan Pal Singh, the petitioner no. 6 Smt. Sunita Devi s/o Sh. Ram Kumar, the petitioner no. 7 Smt. Anita Devi w/o Sh. Yogesh Kumar and the petitioner no. 8 Ganga Bishan Singh s/o Sh. Ram Phal Singh are quashed.

The petition is disposed of.

**ANU MALHOTRA, J**

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**Statement of CW1 : Investigating Officer ASI Ashok Kumar PS  
Timarpur Delhi.**

**ON S.A.**

The petitioner no. 1 Harish Kumar s/o Sh. Bishan Pal Singh, the petitioner no. 2 Bishan Pal Singh s/o Sh. Ram Prasad, the petitioner no. 3 Smt. Birmati Devi w/o Sh. B.P. Singh, the petitioner no. 4 Yogesh Kumar s/o Sh. Bishan Pal Singh, the petitioner no. 5 Ms. Usha Singh d/o Sh. Bishan Pal Singh, the petitioner no. 6 Smt. Sunita Devi s/o Sh. Ram Kumar, the petitioner no. 7 Smt. Anita Devi w/o Sh. Yogesh Kumar and the petitioner no. 8 Ganga Bishan Singh s/o Sh. Ram Phal Singh are the only eight accused persons arrayed in the FIR No. 465/16, PS Timarpur, under Sections 498A/406/34 of the Indian Penal Code, 1860 and there are no other person arrayed as accused in the said FIR. The proof of the petitioners no. 1, 2, 4, 6 & 7 and of the respondent no. 2 are on record in the form of the photocopies of the documents produced by them of which originals have been seen and returned, which are on record as Ex.CW1/A to Ex.CW1/F. The proof of identity of the petitioner no. 3 in the form of photocopy of the Aadhar Card is Ex.CW1/G (original seen and returned). I identify the same photograph thereon as being of the petitioner no. 3. I identify the photographs of the petitioners no. 5 & 8 on record of photocopies of their

Aadhar Cards as Ex.CW1/H & Ex.CW1/I as being the said accused (original seen and returned).

**RO & AC**  
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**ANU MALHOTRA, J**

**Statement of CW2 : Aishwarya Richa Singh d/o Sh. Sahab Singh, aged 35 years r/o H. No. P-23/4, Defence Officers Enclave, R & D Campus, Near Composite Food Laboratory, Timarpur, New Delhi – 54.**

**ON S.A.**

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No. 465/16, PS Timarpur, under Sections 498A/406/34 of the Indian Penal Code, 1860 nor I do want the petitioners to be punished in relation thereto in view of the settlement arrived at between me and the petitioners. The marriage between me and the petitioner no. 1 has since been dissolved vide a decree of divorce dated 22.12.2017 of the Court of the Principal Judge, Family Courts, Central District, THC, Delhi in HMA No. 1509/17 under Sections 13B(2) of the Hindu Marriage Act, 1955, certified copy of which is on record as Ex.CW2/A. There is no child of the wedlock between me and the petitioner no. 1. In terms of the settlement arrived at in Delhi Mediation Centre, Tis Hazari Courts, Delhi, copy of which settlement agreement bears my signatures thereon at point-A on each page thereof is Ex.CW2/B. A total sum of Rs.9,40,000/- was payable to him by the petitioners of which Rs.7 lakhs have already been received by me and balance sum of Rs.2,40,000/- has been handed over to me by the petitioners vide D.D. No. 196804 dated 15.01.2018 drawn on The Hongkong and Shanghai Banking Corporation Limited, photocopy of which is on record as Ex.CW2/C. My affidavit annexed to the petition bears my signature thereon

at points-A and B on Ex.CW2/D. Now there are no claims of mine left against the petitioners. I have done my Masters in Ceramic & Glass Design, NID Ahmedabad and working as an Architect with MES. 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**