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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1432/2018 & CRL.M.A. 5204/2018**

SATYA PRAKASH PANDEY Petitioner
Through: Mr. Saurabh Kansal, Adv.

versus

STATE (NCT OF DELHI) & ANR Respondent
Through: Mr. Kewal Singh Ahuja, APP for
State with SI Gajendra Singh, PS
Hauz Khas.
R-2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **20.03.2018**

CRL.M.A. 5204/2018(Exemption)

Exemption allowed, subject to just exceptions.

CRL.M.C. 1432/2018

Vide the present petition, the petitioner seeks quashing of FIR No. 1292/2015, registered at PS Hauz Khas, under Sections 498A/406 Indian Penal Code, 1860 registered on the complaint of the respondent no.2 submitting to the effect that there are now no disputes between the petitioner and the respondent no.2 inasmuch as they are living together without any grievances now.

The Investigating Officer of the case present today in Court has identified the petitioner Shri Satya Prakash Pandey, s/o Shri Ranjeet Pandey as being the sole accused arrayed in FIR No. 1292/2015, registered at PS Hauz Khas, under Sections 498A/406 Indian Penal Code, 1860 and has also

identified the respondent no.2 Smt. Priyanka present today in Court as being the complainant thereof. The proofs of identity of the petitioner and of the respondent no. 2 in the form of photocopies of their Election Commission I-Card are on the record as Ex. CW1/A to Ex. CW1/B respectively. (Originals seen and returned.)

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 inasmuch as there were averments in the charge-sheet, copy of which is placed on the record and as also affirmed on behalf of the State that the statement under Sections 161 Cr.PC, 1973 of the prosecutrix has also been recorded on 26.07.2016 to the similar effect that the petitioner and the respondent no.2 are living together. A bare perusal of the charge-sheet itself indicates that on enquiry that was conducted during the course of investigation, notice was served to the complainant Ms. Priyanka Pandey, the respondent no.2 to provide the list of istridhan articles, photographs of marriage and other relevant information and she stated that she did not want to pursue the matter and she was living with her husband. To the similar effect, the statement was made by the respondent no.2 today in her examination on oath by the Court and she has testified to having sworn her affidavit annexed to the petition as Ex.CW2/A dated 17.03.2018 in support of the averments made in the petition voluntarily of her own accord without any duress or coercion from any quarter. She has further stated that after 2/3 months of separation from the petitioner at the time of the registration of the FIR in question dated 26.11.2015, she has been living with the petitioner thereafter without any problems now and she has stated further to the effect that there are four children born of the wedlock between

her and the petitioner, of whom, three daughters are living with her and the petitioner and her son born of the wedlock has been given in adoption to the sister of the petitioner. She has further stated that now she wants to continue to live with the petitioner.

In view of the deposition of the respondent no.2, there is no reason to disbelieve her statement that she has arrived at a settlement with the petitioner voluntarily of her own accord without any duress, coercion or pressure from any quarter and that there is no discord now between her and the petitioner and that she wants to continue to live with the petitioner. As apparently the FIR has been registered pursuant to a matrimonial discord between the petitioner and the respondent no.2, which has since been resolved and the petitioner and the respondent no.2 are living together peacefully as testified by 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)

for maintenance of peace and harmony between the petitioner and the respondent no.2, it is considered appropriate to allow the prayer made by the petitioner seeking quashing of FIR No. 1292/2015, registered at PS Hauz Khas, under Sections 498A/406 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner.

In view thereof the FIR No. 1292/2015, registered at PS Hauz Khas, under Sections 498A/406 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner are quashed.

ANU MALHOTRA, J

MARCH 20, 2018

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CRL.M.C. 1432/2018

SATYA PRAKASH PANDEY

Vs. STATE (NCT OF DELHI) & ANR.

Statement of CW1 : SI Gajendra Singh, PS Huaz Khas, Delhi.

ON S.A.

I identify the petitioner Shri Satya Prakash Pandey, s/o Shri Ranjeet Pandey as being the sole accused arrayed in FIR No. 1292/2015, registered at PS Hauz Khas, under Sections 498A/406 Indian Penal Code, 1860. I also identify the respondent no.2 Smt. Priyanka present today in Court as being the complainant thereof. The proofs of identity of the petitioner and of the respondent no. 2 in the form of photocopies of their Election Commission I-Card are on the record as Ex. CW1/A to Ex. CW1/B respectively. (Originals seen and returned.)

There is no other person arrayed as an accused in the said FIR.

ANU MALHOTRA, J

RO & AC

MARCH 20, 2018

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CRL.M.C. 1432/2018

SATYA PRAKASH PANDEY

Vs. STATE (NCT OF DELHI) & ANR.

Statement of CW2 : Smt. Priyanka, w/o Shri Satya Prakash Pandey, aged 30 years, r/o 9/A, Golden Enclave, Ranaji Enclave, Part-I, Delhi.

ON S.A.

I do not oppose the prayer made by the petitioner seeking quashing of the FIR No. 1292/2015, registered at PS Hauz Khas, under Sections 498A/406 Indian Penal Code, 1860 registered against him on my complaint made on 26.11.2015 nor do I want the petitioner to be punished in relation thereto inasmuch as after 2/3 months of separation from the petitioner, I have been living with the petitioner thereafter without any problems now. There are four children born of the wedlock between me and the petitioner, of whom, three daughters are living with me and the petitioner and my son born of the wedlock has been given in adoption to the sister of the petitioner. Now I want to continue to live with the petitioner.

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

I have studies upto standard 9th.

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