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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1545/2018 & CRL.M.A. 5614/2018**
JITENDER KUMAR & ORS Petitioner
Through Mr. Sumita Karir, Md. Israr Khan,
Advts. with petitioners.
versus

THE STATE & ANR Respondent
Through Mr. Kewal Singh Ahuja, APP for
State with SI Kamal Singh PS
Sangam Vihar.
Mr. Bhaskar Pandey, Adv. for R-2
with R-2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **02.04.2018**

Learned counsel for the respondent no. 2 submits that his vakalatnama would be filed during the course of the day.

Vide the present petition, the petitioner no. 1 Jitender Kumar s/o Sh. Rajender Prasad, the petitioner no. 2 Rajender Prasad, the petitioner no. 3 Guddi Devi w/o Sh. Rajender Prasad seek quashing of FIR No. 86/16, registered at PS Sangam Vihar, under Section 498A/406/494/506/34 of the Indian Penal Code, 1860 submitting to the effect that the matrimonial discord between the petitioner no. 1 and the respondent no. 2 has been resolved by dissolution of their marriage, vide a decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 20.12.2017 of the Court of the Principal Judge Family Courts, South, Saket, New Delhi in HMA No. 1445/17 and all claims between them have been settled.

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The Investigating Officer has identified the petitioner no. 1 Jitender Kumar s/o Sh. Rajender Prasad, the petitioner no. 2 Rajender Prasad, the petitioner no. 3 Guddi Devi w/o Sh. Rajender Prasad as being the accused in relation to the FIR No. 86/16, registered at PS Sangam Vihar, under Section 498A/406/494/506/34 of the Indian Penal Code, 1860. He has also identified the respondent no. 2 Shashi d/o Late Late Sh. Suresh Chand present today in the court i.e. the complainant of the said FIR. The proof of the identity of the petitioners and of the respondent no. 2 in the form of photocopies of their Election Commission Identity Cards produced by them are Ex.CW1/A to Ex. CW1/D respectively, original 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/A voluntarily of her own accord without any duress or coercion from any quarter and has likewise testified to having signed the Counselling Cell settlement dated 16.11.2016, copy of which is on record as Ex.CW2/B, which she has signed voluntarily of her own accord without any duress or coercion from any quarter. She has affirmed the dissolution of the marriage between her and the petitioner no. 1 vide a decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 20.12.2017 in HMA No. 1445/17 of the Court of the Principal Judge Family Courts, South, Saket, New Delhi, the copy of which is on the record as Ex.CW2/C. The respondent no. 2 has further testified to the effect that in terms of the settlement between her and the petitioners, a total sum of

Rs.5,75,000/- was to be paid to her by the petitioners of which Rs.4,75,000/- has been received by her previously and a balance sum of Rs.1 lakh has been handed over to her by the petitioner today in the Court vide DD No. 605627 dated 31.03.2017 in her favour drawn on Syndicate Bank, the copy of which is on the record as Ex.CW2/D. The respondent now submits that there are no claims of her left against the petitioners and that the minor child born of the wedlock between her and the petitioner no. 1 is in her custody and shall continue to remain in her custody. She further testified to the effect that she does not oppose the prayer made by the petitioners seeking quashing of the FIR No. 86/16, registered at PS Sangam Vihar, under Section 498A/406/494/506/34 of the Indian Penal Code, 1860 nor does she want them to be punished in relation thereto and that she has studied till standard 10th.

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 parties.

In view of the deposition of the respondent no.2 that a settlement has been arrived at between the parties in the Counselling Cell settlement dated 16.11.2016 and 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 20.12.2017 in HMA No. 1445/17 of the Court of the Principal Judge Family Courts, South, Saket, New Delhi and as there appears 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 the factum that the FIR No. 86/16, registered at PS Sangam Vihar, under Section 498A/406/494/506/34 of the Indian Penal Code, 1860 is apparently registered on the basis of a matrimonial discord between the petitioner no. 1 and the respondent no. 2 and for maintenance of peace and harmony between the petitioners and the respondent no.2 and for the well being of the child, 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. 86/16, registered at PS Sangam Vihar, under Section 498A/406/494/506/34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner. In view thereof the FIR No. 86/16, registered at PS Sangam Vihar, under Section 498A/406/494/506/34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner no. 1 Jitender Kumar s/o Sh. Rajender Prasad, the petitioner no. 2 Rajender Prasad, the petitioner no. 3 Guddi Devi w/o Sh. Rajender Prasad are quashed.

The petition is disposed of.

ANU MALHOTRA, J

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JITENDER KUMAR & ORS versus THE STATE & ANR

Statement of CW1 : SI Kamal Singh, PS Sangam Vihar, Delhi.

ON S.A.

I identify the petitioner no. 1 Jitender Kumar s/o Sh. Rajender Prasad, the petitioner no. 2 Rajender Prasad, the petitioner no. 3 Guddi Devi w/o Sh. Rajender Prasad as being the accused in relation to the FIR No. 86/16, registered at PS Sangam Vihar, under Section 498A/406/494/506/34 of the Indian Penal Code, 1860. I also identify the respondent no. 2 Shashi d/o Late Late Sh. Suresh Chand present today in the court i.e. the complainant of the said FIR. The proof of the identity of the petitioners and of the respondent no. 2 in the form of photocopies of their Election Commission Identity Cards produced by them are Ex.CW1/A to Ex. CW1/D respectively (original seen and returned).

**RO & AC
APRIL 02, 2018/MK**

ANU MALHOTRA, J

**Statement of CW2 : Shashi d/o Late Sh. Suresh Chand, aged 38 years
r/o 17/1468, I Block, Sangam Vihar, Delhi.**

ON S.A.

My affidavit annexed to the petition bears my signature thereon at points-A and B on Ex.CW2/A. The Counselling Cell settlement dated 16.11.2016 bears my signature thereon at points-A and B on Ex.CW2/B. I have signed both these documents 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 a decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 20.12.2017 in HMA No. 1445/17 of the Court of the Principal Judge Family Courts, South, Saket, New Delhi, the copy of which is on the record as Ex.CW2/C. In terms of the settlement between me and the petitioners, a total sum of Rs.5,75,000/- was to be paid to me by the petitioners of which Rs.4,75,000/- has been received by me previously and a balance sum of Rs.1 lakh has been handed over to me by the petitioner today in the Court vide DD No. 605627 dated 31.03.2017 in my favour drawn on Syndicate Bank, the copy of which is on the record as Ex.CW2/D. There are no claims of mine left against the petitioners and the minor child born of the wedlock between me and the petitioner no. 1 is in my custody and shall continue to remain in my custody. I do not oppose the prayer made by the petitioners seeking quashing of the FIR No. 86/16, registered at PS Sangam Vihar, under Section 498A/406/494/506/34 of the Indian Penal Code, 1860

nor I do want them to be punished in relation thereto. I have studied till standard 10th. I have made this statement voluntarily of my own accord without any duress or coercion from any quarter.

RO & AC
APRIL 02, 2018/MK

ANU MALHOTRA, J