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

+ **CRL.M.C. 1560/2018**

MAHESH GARG

..... Petitioner

Through Mr. Rajiv Bajaj, Adv. with petitioner
in person.

versus

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

Through Mr. Sanjeev Sabharwal, APP for State
with SI Davendra Kumar PS Sarai
Rohlla
R-2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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02.04.2018

Vide the present petition, the petitioner Mahesh Garg s/o Sh. Kanhaiya Lal seeks quashing of FIR No. 437/13, registered at PS Sarai Rohilla, under Section 498A of the Indian Penal Code, 1860 submitting to the effect that a settlement has been arrived at between the parties at the Delhi Mediation Centre dated 20.07.2016 and pursuant to which the petitioner and the respondent no. 2 are living together since 20.07.2016 as per submission made in the petition.

The Investigating Officer of the case has identified the petitioner Mahesh Garg s/o Sh. Kanhaiya Lal as being the accused in relation to the FIR No. 437/13, registered at PS Sarai Rohilla, under Section 498A of the Indian Penal Code, 1860 and has also identified the respondent no. 2 Bharti Garg d/o Late Sh. Subhajan Lal present today in the court as being the

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complainant of the said FIR. The proof of the identity of the petitioner and of the respondent no. 2 in the form of photocopies of their Aadhar Cards produced by them are Ex.CW1/A to Ex. CW1/B respectively, originals of which have been seen and returned.

The respondent no.2 in her testimony has affirmed that she and the petitioner are living together since mid 2016 without any problems. She has further stated that there are four children of the wedlock, who are living together. She further testified to the effect that she does not oppose the prayer made by the petitioner seeking quashing of the FIR No. 437/13, registered at PS Sarai Rohilla, under Section 498A of the Indian Penal Code, 1860 nor does she want him to be punished in relation thereto as there are no problems now. The respondent no. 2 has stated that she has studied till standard 12th.

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, 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 taking into account the factum that the FIR No. 437/13, registered at PS Sarai Rohilla, under Section 498A of the Indian Penal Code, 1860 is apparently registered on the basis of 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 since 20.07.2016 onwards for which it has been submitted by the respondent no. 2 that there is no problem now and thus for maintenance of peace and harmony between the petitioner and the respondent no.2 and for the well being of the children, 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 the FIR No. 437/13, registered at PS Sarai Rohilla, under Section 498A of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner. In view thereof the FIR No. 437/13, registered at PS Sarai Rohilla, under Section 498A of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against Mahesh Garg s/o Sh. Kanhaiya Lal are quashed.

The petition is disposed of.

ANU MALHOTRA, J

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MAHESH GARG versus

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

Statement of CW1 : SI Davendra Kumar, PS Sarai Rohilla, Delhi.

ON S.A.

I identify the petitioner Mahesh Garg s/o Sh. Kanhaiya Lal as being the accused in relation to the FIR No. 437/13, registered at PS Sarai Rohilla, under Section 498A of the Indian Penal Code, 1860. I also identify the respondent no. 2 Bharti Garg d/o Late Sh. Subhajan Lal present today in the court i.e. the complainant of the said FIR. The proof of the identity of the petitioner and of the respondent no. 2 in the form of photocopies of their Aadhar Cards produced by them are Ex.CW1/A to Ex. CW1/B respectively (original seen and returned).

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MAHESH GARG versus

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

Statement of CW2 : Bharti Garg w/o Sh. Mahesh Garg d/o Late Sh.

Subhajan Lal, aged 42 years r/o SK-46, Sindhora Kalan Village, Delhi.

ON S.A.

I do not oppose the prayer made by petitioner Mahesh Garg s/o Sh. Kanhaiya Lal seeking quashing of the FIR No. 437/13, registered at PS Sarai Rohilla, under Section 498A of the Indian Penal Code, 1860 in as much as I and the petitioner are living together since mid 2016 without any problems. There are four children of the wedlock between me and the petitioner and we are living together. My affidavit annexed to the petition bears my signature thereon at points-A and B on Ex.CW2/C, which I have signed voluntarily. A mediation settlement dated 20.07.2016 was arrived at between me and the petitioner. The true copy thereof bears my signature thereon at points-A and B on Ex.CW2/B, which I have signed voluntarily of my own accord without any duress or coercion from any quarter. I have studied till standard 12th. I have made this statement voluntarily of my own accord without any duress or coercion from any quarter.

RO & AC

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ANU MALHOTRA, J