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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1686/2018**
VINOD & ORS Petitioner

Through: Petitioners no. 1 to 3 in person with
Mr. Manoj Kumar, Advocate.

versus

STATE & ANR Respondent

Through: Mr. Izhar Ahmad, APP for State with
ASI Ramesh, PS Swaroop Nagar.
Mr. Bhupesh & Mr. Yogesh, Advs for
R-2.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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06.04.2018

Vide the present petition, the petitioners seek quashing of the FIR No. 40/17, PS Swaroop Nagar, under Sections 498-A/406/34 Indian Penal Code, 1860 submitting to the effect that the matrimonial discord between the petitioner no. 1 and the respondent no. 2 has since been resolved by a decree of divorce through mutual consent under Section 13 (B)(2) of the HMA dated 22.03.2018 in HMA no. 231/18 of the Court of the Principal Judge, Family Court, Central District, Tis Hazari Courts and that all the disputes between the petitioners and the respondent no. 2 have been settled in terms of settlement dated 06.10.2017 arrived at between the petitioner no. 1 and the respondent no. 2 at the Counselling Cell before the Court of the Principal Judge, Family Court, Central, Tis Hazari Courts, Delhi and that thus the FIR in question be quashed.

The Investigating Officer of the present case is present today in the Court and has identified the petitioner no. 1 Sh. Vinod, petitioner no. 2 Smt. Sakbari Devi and petitioner no. 3 Sh. Yashpal (Papoo) as being the three accused arrayed in the FIR No. 40/17, PS Swaroop Nagar, under Sections 498-A/406/34 Indian Penal Code, 1860. He has also identified the respondent no.2, Smt. Sadhna Rawat present today in Court as being the complainant of the said FIR. The proofs of identity of the petitioner nos. 1 to 3 and of the respondent no. 2 in the form of photocopies of their Aadhar Cards are on the record as Ex. CW1/A, Ex. CW1/B, Ex. CW1/C & Ex. CW1/D respectively, originals of which have been seen and returned.

The respondent no. 2 in her examination on oath by the Court has testified to the effect that the marriage between her and the petitioner no. 1 has since been dissolved by a decree of divorce through mutual consent under Section 13 (B)(2) of the HMA dated 22.03.2018 in HMA no. 231/18 of the Court of the Principal Judge, Family Court, Central District, Tis Hazari Courts, copy of which decree sheet is on the record as Ex. CW2/A and has also affirmed having signed the settlement arrived at between her and the petitioner no. 1 at the Counselling Cell before the Court of the Principal Judge, Central, Tis Hazari Courts, Delhi, copy of which is on the record as Ex. CW2/B. She has further stated that in terms of the stated settlement, a total sum of Rs. 4,60,000/- was to paid to her by the petitioners, out of which a sum of Rs. 2,80,000/- has been received by her previously and a balance sum of Rs. 1,80,000/- has now been

handed over to her vide a demand draft bearing No. 271375 dated 17.03.2018 drawn on the Canara Bank, copy of the same is on the record as Ex. CW2/C and has further submitted that there are now no claims of hers left against the petitioners.

The respondent no. 2 has further testified to the effect that she is a Post-graduate in Hindi and has made her statement voluntarily of her own accord without any duress, pressure or coercion from any quarter and that she does not oppose the prayer made by the petitioners seeking quashing of the FIR No. 40/17, PS Swaroop Nagar, under Sections 498-A/406/34 Indian Penal Code, 1860 nor does she want the petitioners to be punished in relation thereto in view of the settlement arrived at between her and the petitioners.

On behalf of the State, 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.

There appears no reason to disbelieve the statement of the respondent no. 2 that she has arrived at a settlement with the petitioners voluntarily, it is considered appropriate for the maintenance of peace and harmony between the petitioners and the respondent no. 2 and for the well being of the parties to put a quietus to the litigation between the parties, 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. 40/17, PS Swaroop Nagar, under Sections 498-A/406/34 Indian Penal Code, 1860 against the petitioners and all consequential proceedings emanating therefrom are quashed.

ANU MALHOTRA, J

APRIL 06, 2018/NC

CRL.M.C. 1686/2018

Page 5 of 5

35

CRL.M.C. 1686/2018

VINOD & ORS.

Vs. STATE & ANR

Statement of CW1 : ASI RAMESH KUMAR, PS SWAROOP NAGAR, DELHI.

ON S.A.

I identify the petitioner no. 1 Sh. Vinod, petitioner no. 2 Smt. Sakbari Devi and petitioner no. 3 Sh. Yashpal (Papoo) as being the three accused arrayed in the FIR No. 40/17, PS Swaroop Nagar, under Sections 498-A/406/34 Indian Penal Code, 1860. I also identify the respondent no.2, Smt. Sadhna Rawat present today in Court as being the complainant of the said FIR. The proofs of identity of the petitioner nos. 1 to 3 and of the respondent no. 2 in the form of photocopies of their Aadhar Cards are on the record as Ex. CW1/A, Ex. CW1/B, Ex. CW1/C & Ex. CW1/D respectively. (Originals seen and returned.)

ANU MALHOTRA, J

RO & AC

APRIL 06, 2018

35

CRL.M.C. 1686/2018

VINOD & ORS.

Vs. STATE & ANR

Statement of CW2 : Smt. Sadhna Rawat, d/o Sh. Digamber Singh, aged 30 years, r/o H.No. 290, Gali no. 16, Inderprastha Colony, Swaroop Nagar, Burari, Delhi.

ON S.A.

I do not oppose the prayer made by the petitioner no. 1 Sh. Vinod, petitioner no. 2 Smt. Sakbari Devi and petitioner no. 3 Sh. Yashpal (Papoo) seeking quashing of the FIR No. 40/17, PS Swaroop Nagar, under Sections 498-A/406/34 Indian Penal Code, 1860 nor do I 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 by a decree of divorce through mutual consent under Section 13 (B)(2) of the HMA dated 22.03.2018 in HMA no. 231/18 of the Court of the Principal Judge, Family Court, Central District, Tis Hazari Courts, copy of which decree sheet is on the record as Ex. CW2/A. The settlement was arrived at between me and the petitioners at the Counselling Cell before the court of the Principal Judge, Central, Tis Hazari Courts, Delhi, the said document bears my signatures thereon at point A on each page on Ex. CW2/B. In terms of the stated settlement, a total sum of Rs. 4,60,000/- was to paid to me by the petitioners, out of which a sum of Rs. 2,80,000/- has been received by me previously and a balance sum of Rs. 1,80,000/- has now been handed over to me vide a demand draft bearing No. 271375 dated

17.03.2018 drawn on the Canara Bank, copy of the same is on the record as Ex. CW2/C. There are now no claims of mine left against the petitioners.

I am a Post-graduate in Hindi.

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

ANU MALHOTRA, J

**RO & AC
APRIL 06, 2018**