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

+ **CRL.M.C. 2029/2018**

SUKHVINDER SINGH & ORS

..... Petitioners

Through: Mr. Rajeev Garg, Adv.

versus

STATE & ANR

..... Respondents

Through: Mr. Kewal Singh Ahuja, APP with
ASI Sushil, P.S. Tilak Nagar

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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19.04.2018

Vide the present petition, the petitioners seek quashing of the FIR No. 1355/2015 under Sections 494/498A/406/34 Indian Penal Code, 1860 P.S. Tilak Nagar against the petitioners No.1 to 5 and under Section 494 against the petitioner No.1, submitting to the effect that a settlement has been arrived at between the parties and that all the disputes between the petitioners and the respondent no. 2 have since been resolved and the marriage between the petitioner no. 1 and the respondent no. 2 has since been dissolved by a decree of divorce through mutual consent.

The Investigating Officer of the instant case is present today in the Court and has identified the petitioners no. 1 to 5 namely Shri Sukhvinder Singh, Sardar Chanan Singh, Smt. Dalbir Kaur, Ms. Kulbir @Reena and Ms. Paramjit @ Pinky arrayed as accused in FIR

No. 1355/2015 under Sections 494/498A/406/34 Indian Penal Code, 1860 P.S. Tilak Nagar and the respondent No.2 Smt. Davender Kaur as being the complainant thereof. The proofs of identity of the petitioners No.1 to 5 are on record and Ex.CW1/A to CW1/E. (original seen and returned), The respondent No.2 has produced her original aadhar card. (original seen and returned).

The respondent no. 2 in her examination on oath by the Court has testified to having sworn her affidavit Ex.CW2/A annexed to the petition. She has testified to the effect that pursuant to the settlement arrived at between her and the petitioners, the marriage between her and the petitioner no. 1 has been dissolved by a decree of divorce through mutual consent under Section 13(B)(2) of the HMA in HMA No.748/17 dated 27.9.2017 vide a decree of divorce of the Court of the Add. Principal Judge, Family Court (West), Delhi, certified copy of which is on the record as Ex. CW1/C and further testified to the effect that in terms of the settlement arrived at between her and the petitioners, a total sum of Rs.5.00/- lakhs was to be paid to her by the petitioners, out of which a sum of Rs. 4.00 lakhs has been received to her previously and the balance sum of Rs.1.00 lakh has been handed over to her today in the Court vide a demand draft bearing No.603527 dated 13.04.2018 drawn on the Oriental Bank of Commerce. She has further stated that there are now no claims of hers left against the petitioners. She has further stated that there is no child born out of the wedlock between her and the petitioner no. 1 and

that all the claims between them have been settled and also stated that she does not oppose the prayer made by the petitioners seeking quashing of the FIR No. 1355/2015 under Sections 494/498A/406/34 Indian Penal Code, 1860 P.S. Tilak Nagar nor does she want the petitioners to be punished in relation thereto in view of the settlement arrived at between her and the petitioners. She has testified to the effect that she has studied till Standard X.

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.

In view of the deposition of the respondent no. 2, there appears no reason to disbelieve her statement that she has arrived at a settlement with the petitioners voluntarily. The FIR registered apparently emanates due to a matrimonial discord between the petitioner no. 1 and the respondent no. 2 which has since been resolved vide a dissolution of marriage between the petitioner no. 1 and the respondent no. 2 vide a decree of divorce through mutual consent, attested copy of which decree sheet is on the record as Ex.CW1/C and that all claims have been settled and 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 ***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 petitioners seeking quashing of FIR No. 1355/2015 under Sections 494/498A/406/34 Indian Penal Code, 1860 P.S. Tilak Nagar of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners. In view thereof the FIR No. 1355/2015 under Sections 494 against the petitioner No.1 and FIR No. 1355/2015 under Section 498A/406/34 Indian Penal Code, 1860 against the petitioners No.1 to 5 P.S. Tilak Nagar and all the consequential proceedings emanating therefrom against the petitioners No.1 to 5 namely Shri Sukhvinder Singh, Sardar Chanan Singh, Smt. Dalbir Kaur, Ms. Kulbir @Reena and Ms. Paramjit @ Pinky are quashed.

The petition is disposed of.

ANU MALHOTRA, J

APRIL 19, 2018

Aj

Statement of CW2 : Smt. Davender Kaur, aged 31 years r/of Gali No.20, Sant Nagar, Tilak Nagar, Delhi

ON S.A.

My affidavit annexed to the petition bears my signature thereon at points A & B on Ex. CW2/A which I have signed voluntarily of my own accord. I have signed the original settlement deed dated 4.2.2017 which bears my signatures at point A. Photocopy of which is Ex.CW2/B. (Original seen and returned). I have signed the settlement deed voluntarily. In view of the settlement between me and the petitioners, marriage between me and the petitioner No.1 has since been dissolved by decree of divorce through mutual consent under Section 13B(2) of HMA Act on 27.9.2017 of the Court of Add. Principal Judge, Family Court (West), Delhi. Certified copy of which is Ex.CW1/C. As per the settlement a total sum of Rs.5.00 lakhs was to be paid to me by the petitioners of which a sum of Rs.4.00 lakh has been received by me and the balance sum of Rs.1.00 lakh has been received by me today by way of a demand draft No.603527 dated 13.4.2018 drawn on Oriental Bank of Commerce in my favoaur. There are now no claims of mine left against the petitioners. I do not oppose the prayer made by the petitioners seeking quashing of FIR No.1355/2015 under Sections 494/498A/406/34 Indian Penal Code, 1860 P.S. Tilak Nagar in view of the settlement. Nor do I oppose the prayer made by the petitioner No.1 seeking quashing of the FIR in relation to Section 494 Indian Penal Code, 1860. I

have studied till class X.

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 19, 2018**

Statement of CW2 : ASI Sushil Singh, PS Tilak Nagar**ON S.A.**

I identify the petitioners no. 1 to 5 namely Shri Sukhvinder Singh, Sardar Chanan Singh, Smt. Dalbir Kaur, Ms. Kulbir @Reena and Ms. Paramjit @ Pinky arrayed as accused in FIR No. 1355/2015 under Sections 494/498A/406/34 Indian Penal Code, 1860 P.S. Tilak Nagar and the respondent No.2 Smt. Davender Kaur as being the complainant thereof. The proofs of identity of the petitioners No.1 to 5 are on record and Ex.CW1/A to CW1/E. (original seen and returned), The respondent No.2 has produced her original aadhar card. (original seen and returned). Photocopy of the same be placed on record.

ANU MALHOTRA, J**RO & AC
APRIL 19, 2018**

