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

+ CRL.M.C. 1753/2018

SANJAY & ORS

..... Petitioner

Through: Mr. H.S. Dhillon & Mr. Rajender
Singh, Advocates.

versus

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

Through: Mr. Izhar Ahmad, APP for State with
ASI Subhash Chander, PS Bawana.
Mr. Lalit Rana, Adv for R-2.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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10.04.2018

Vide the present petition, the petitioners seek quashing of the FIR No. 746/15, PS Bawana, under Sections 498A/406/34 of the Indian Penal Code, 1860 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 petitioner no. 1 Sh. Sanjay s/o Sh. Sunil, the petitioner no. 2 Sh. Sunil s/o Sh. Sardare Singh, the petitioner no. 3 Smt. Baby w/o Sh.Sunil, the petitioner no. 4 Sh. Ashish s/o Sh. Sunil, the petitioner no. 5 Sh. Shivam s/o Sh. Randhir,

the petitioner no. 6 Smt. Madhu w/o Sh. Randhir, the petitioner no. 7 Ms. Indu d/o Sh. Randhir, the petitioner no. 8 Ms. Asha @ Darshan w/o Sh. Randhir, petitioner no. 9 Sh. Randhir s/o Late Sh.Sardare as being the nine accused persons arrayed in the FIR No. 746/15, PS Bawana, under Sections 498A/406/34 of the Indian Penal Code, 1860 and has stated that there are no other persons arrayed as accused in the said FIR. He has also identified the respondent no. 2 as being the complainant thereof. The proof of identity of the petitioners no. 1 to 9 and of the respondent no. 2 are on the record in the form of the photocopies of the documents produced by them, which are on record as Ex.CW1/A to Ex.CW1/J, originals 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 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. 1510/17 dated 05.12.2017 vide a decree of divorce of the Court of the Principal Judge, Family Court, North District, Rohini, attested copy of which is on the record as Ex. CW2/B and further testified to the effect that in terms of the settlement arrived at between her and the petitioners, a total sum of Rs. 3,50,000/- was to be paid to her by the petitioners, out of which a sum of Rs. 3,00,000/- has been received by her previously and the balance sum of Rs. 50,000/- has been

handed over to her today in the Court vide a demand draft bearing No.843329 dated 13.02.2018 drawn on the State Bank of India, photocopy of which is on the record as Ex. CW2/C. 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. 746/15, PS Bawana, under Sections 498A/406/34 of the 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. She has testified to the effect that she has studied till Standard 8th and that she does stitching work.

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.

CW2/B 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. 746/15, PS Bawana, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners. In view thereof the FIR No. 746/15, PS Bawana, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner no. 1 Sh. Sanjay s/o Sh. Sunil, the petitioner no. 2 Sh. Sunil s/o Sh. Sardare Singh, the petitioner no. 3 Smt. Baby w/o Sh. Sunil, the petitioner no. 4 Sh. Ashish s/o Sh. Sunil, the petitioner no. 5 Sh. Shivam s/o Sh. Randhir, the petitioner no. 6 Smt. Madhu w/o Sh. Randhir, the petitioner no. 7 Ms. Indu d/o Sh. Randhir, the petitioner no. 8 Ms. Asha @ Darshan w/o Sh. Randhir, petitioner no. 9 Sh. Randhir s/o Late Sh. Sardare are quashed.

The petition is disposed of.

ANU MALHOTRA, J

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STATE & ANR

Statement of CW1 : Investigating Officer ASI Subhash Chander, PS Bawana.

ON S.A.

I identify the petitioner no. 1 Sh. Sanjay s/o Sh. Sunil, the petitioner no. 2 Sh. Sunil s/o Sh. Sardare Singh, the petitioner no. 3 Smt. Baby w/o Sh. Sunil, the petitioner no. 4 Sh. Ashish s/o Sh. Sunil, the petitioner no. 5 Sh. Shivam s/o Sh. Randhir, the petitioner no. 6 Smt. Madhu w/o Sh. Randhir, the petitioner no. 7 Ms. Indu d/o Sh. Randhir, the petitioner no. 8 Ms. Asha @ Darshan w/o Sh. Randhir, petitioner no. 9 Sh. Randhir s/o Late Sh. Sardare as being the nine accused persons arrayed in the FIR No. 746/15, PS Bawana, under Sections 498A/406/34 of the Indian Penal Code, 1860 and there are no other persons arrayed as accused in the said FIR. The proof of identity of the petitioners no. 1 to 9 and of the respondent no. 2 are on record in the form of the photocopies of the documents produced by them, which are on record as Ex.CW1/A to Ex.CW1/J. (originals seen and returned).

**RO & AC
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ANU MALHOTRA, J

Statement of CW2 : Smt. Deepa, w/o Sh. Sanjay, aged 24 years r/o H. No. 493, Pana Dhaniwara, Bawana, Delhi.

ON S.A.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No. 746/15, PS Bawana, under Sections 498A/406/34 of the Indian Penal Code, 1860 nor I do want the petitioners to be punished in relation thereto in view of the settlement arrived at between me and the petitioners.

My affidavit annexed to the petition bears my signatures thereon at points A & B on Ex. CW2/A which I have signed voluntarily of my own accord. Pursuant to the settlement arrived at between me and the petitioners, the marriage between me 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. 1510/17 dated 05.12.2017 vide a decree of divorce of the Court of Principal Judge, Family Court, North District, Rohini, attested copy of which is on the record as Ex. CW2/B. In terms of the settlement arrived at between me and the petitioners, a total sum of Rs. 3,50,000/- was to be paid to me by the petitioners, out of which a sum of Rs. 3,00,000/- has been received by me previously and the balance sum of Rs. 50,000/- has been handed over to me today in the Court vide a demand draft bearing No.843329 dated 13.02.2018 drawn on the State Bank of India, photocopy of which is on the record as Ex. CW2/C. There are now no claims of mine

left against the petitioners.

I have studied till Standard 8th and I am doing the stitching work.

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

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ANU MALHOTRA, J