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

+ **CRL.M.C. 1732/2018**

SUSHIL KUMAR & ORS

..... Petitioners

Through

Mr. Sagar Dawar, Adv. along with
petitioners in person

versus

STATE (GOVT OF NCT DELHI) & ANR

..... Respondents

Through

Mr. Hirein Sharma, APP
SI Sandeep, PS Narela
Mr. Yesh Pal Saini, Adv. for R-2
along with respondent No.2 in person

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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09.04.2018

Vide the present petition, the petitioners no. 1 Sushil Kumar s/o Sh. Somdutt, Petitioner No.2 Omvati w/o Sh. Somdutt, Petitioner No.3 Manisha Kaushik w/o Sh. Jitender Attri and the petitioner no.4 Geeta w/o Sh. Suresh Kumar seek quashing of FIR No. 1488/14, registered at PS Narela, Outer District under Section 498A/406/34 of the Indian Penal Code, 1860 submitting to the effect that a settlement has since been arrived at between the parties and all disputes between them amicably settled.

The Investigating Officer of the case present in the Court has identified the petitioners as being the accused arrayed in the said FIR and has identified the respondent no. 2 as being the complainant thereof. The proofs of the identity of the petitioners No. 1 to 4 and of the respondent no.

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2 in the form of photocopies of their Aadhar Cards produced by them are Ex.CW1/A to Ex. CW1/E respectively, 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 annexed to the petition as Ex.CW2/A and has testified to having signed the settlement arrived at between her and petitioner No.1 which settlement has been arrived at the Counselling Cell in the Court of Principal Judge, North District, Family Courts, Delhi attested copy of which is Ex.CW2/B, the terms of which have been modified during the course of the proceedings in MT No.56485/2016 before the Judge, Lok Adalat, Family Courts, North District, Delhi and the attested copy of such proceedings is Ex.CW2/D of the total agreed amount of Rs.3 lakh in terms of the Counselling Cell Settlement Ex.CW2/B, a sum of Rs.2 lakh has been stated by the complainant to have been previously received by her and the balance amount of Rs.1 lakh has been handed over in the form of D.D. No. 398363 dated 13.03.2018 drawn on the Oriental Bank of Commerce in the name of Pinki Rani in which name she has an account. A photocopy of which DD is on record as Ex.CW2/E.

Respondent No.2 has testified to the effect that the marriage between her and the petitioner No.1 has dissolved by mutual consent by decree dated 12.01.2018 of the Court of the Principal Judge, North District, Family Courts, Delhi and attested copy of which is on record as Ex.CW2/C. The respondent No.2 has also stated that in terms of the settlement arrived at between respondent No.2 and petitioner No.1, the minor daughter born out of the wedlock is in the custody of respondent No.2 and shall continue to

live with her in her custody.

Respondent No.2 further states that she does not oppose the prayer made by the petitioners seeking quashing of the FIR No.1488/14, registered at PS Narela, Outer District under Section 498A/406/34 of the Indian Penal Code, 1860 nor does she want the petitioners No.1 to 4 to be punished in relation thereto in view of the settlement arrived at between them.

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.

The respondent no. 2 states that she has studied upto standard 10th and is undergoing training in stitching. 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. As the FIR in question has apparently been registered on the basis of a matrimonial discord between the petitioner no. 1 and the respondent no.2 which has since been resolved by dissolution of marriage between the petitioner no. 1 and the respondent no. 2, it is considered appropriate to allow the prayer of the petitioners made in the petition seeking quashing of the FIR in question for maintenance of peace and harmony between the petitioners and the respondent No.2 and thus, it is considered essential 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 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. 1488/14, registered at PS Narela, Outer District under Section 498A/406/34 of the Indian Penal Code, 1860 and all the

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consequential proceedings emanating therefrom against the petitioners No.1 to 4, namely Shri Sushil Kumar, Smt. Omvati, Ms. Manisha Kaushik and Ms. Geeta respectively. In view thereof the FIR No. 1488/14, registered at PS Narela, Outer District under Section 498A/406/34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner no. no. 1 Sushil Kumar s/o Sh. Somdutt, Petitioner No.2 Omvati w/o Sh. Somdutt, Petitioner No.3 Manisha Kaushik w/o Sh. Jitender Attri and the petitioner no.4 Geeta w/o Sh. Suresh Kumar are quashed.

The petition is disposed of.

ANU MALHOTRA, J

APRIL 09, 2018/ns

Statement of CW1 : SI Sandeep, PS Narela, Outer District, Delhi.**ON S.A.**

I identify the petitioners no. 1 to 4. Petitioner No.1 Sushil Kumar s/o Sh. Somdutt, Petitioner No.2 Omvati w/o Sh. Somdutt, Petitioner No.3 Manisha Kaushik w/o Sh. Jitender Attri and the petitioner no.4 Geeta w/o Sh. Suresh Kumar as the accused in the FIR No.1488/14, registered at PS Narela, Outer District under Section 498A/406/34 of the Indian Penal Code, 1860. I also identify the respondent no. 2 Pinki present today in the court as being the complainant of the said FIR. There are no other accused named in the FIR. The proof of the identity of the petitioners 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/E respectively (original seen and returned).

**RO & AC
APRIL 09, 2018/ns****ANU MALHOTRA, J**

**Statement of CW2 : Pinki d/o Late Sh. Satyavir, aged 25 years r/o 26-B,
Band Gali, Opp. Jain Mandir, Swatentar Nagar, Narela, Delhi -40.**

ON S.A.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.1488/14, registered at PS Narela, Outer District under Section 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 signature thereon at points-A and B on Ex.CW2/A. The settlement arrived at between me and the petitioner No.1 at the Counselling Cell in the Court of Principal Judge, North District, Family Courts, Delhi bears my signature thereon at point-A on each page thereon on Ex.CW2/B which I have signed voluntarily of my own accord without any duress, pressure or coercion from any quarter. The marriage between me and petitioner No.1 has been dissolved by mutual consent by decree dated 12.01.2018 in the Court of Principal Judge, North District, Family Courts, Delhi. The attested copy thereof is Ex.CW2/C. The terms recorded in Ex.CW2/B of the payment schedule of the total amount of Rs.3 lakh has been modified during the course of the proceedings in MT No.56485/2016 before the Judge, Lok Adalat, Family Courts, North District, Delhi and the certified copy issued by the Copying Agency is on record which is Ex.CW2/D.

In terms of the settlement arrived at between me and the petitioner

No.1, a total sum of Rs.3,00,000/- is payable to me by the petitioner No.1. Out of Rs.3 lakh, a sum of Rs.2 lakh has already been paid to me by the petitioner No.1 and the balance sum of Rs.1 lakh has been handed over to me by petitioner No.1 in the form of D.D. No. 398363 dated 13.03.2018 drawn on the Oriental Bank of Commerce. A photocopy of which is on record as Ex.CW2/E. Now there are no claims of mine left against the petitioners in relation to the FIR No. 1488/14, registered at PS Narela, Outer District under Section 498A/406/34 of the Indian Penal Code, 1860.

In terms of the settlement arrived at between me and petitioner No.1, my minor daughter born out of the wedlock is in my custody and shall remain in my custody.

In view of the settlement arrived at between me and petitioners I do not oppose the prayer made by petitioners in the petition seeking quashing of the FIR No.1488/14, registered at PS Narela, Outer District under Section 498A/406/34 of the Indian Penal Code, 1860. I do not seek that the petitioners be punished in relation to the FIR No. 1488/14, registered at PS Narela, Outer District under Section 498A/406/34 of the Indian Penal Code, 1860. I have studied upto standard 10th and I have undergone training in relation to stitching. I have made this statement voluntarily of my own accord without any duress or coercion from any quarter.

RO & AC
APRIL 09, 2018/ns

ANU MALHOTRA, J