

\$~52

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

+ **CRL.M.C. 1722/2018 & CRL.M.A. 6201/2018**

VIRENDER & ORS

..... Petitioner

Through Ms. Nisha Satyarthi, Adv. with P1 to
P3 & P6.

versus

STATE & ANR

..... Respondent

Through Mr. Panna Lal Sharma, APP for State
with SI Shanker Lal PS Begum Pur.
R2 with Mr. Ram Niwas, Adv.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

%

09.04.2018

Vide the present petition, the petitioner no. 1 Virender s/o Sh. Dharmpal, the petitioner no. 2 Dharmpal s/o Sh. Chattar Singh, the petitioner no. 3 Smt. Gulabo Devi w/o Sh. Dharampal, the petitioners no. 4 Rajesh Kumar s/o Sh. Dharmpal, the petitioner no. 5 Smt. Dharamwati w/o Sh. Rajesh and the petitioner no. 6 Krishna Devi w/o Sh. Balwan Singh seek quashing of FIR No. 88/15, registered at PS Begum Pur, 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 the petitioner no. 1 and the respondent no. 2 are living together happily without any problems. The petitioners no. 4 & 5 are not present today.

The Investigating Officer of the case has identified the petitioners no. 1, 2 & 3 and the petitioner no. 6 and the photographs of the petitioners no. 4

CRL.M.C. 1722/2018

page 1 of 5

& 5 as being the accused arrayed in the FIR in question and has further stated that the petitioner no. 6 was not charge-sheeted. The Investigating Officer has also identified the respondent no. 2 wrongly mentioned as the respondent no. 3 in the memo of the parties as being the complainant of the FIR in question.

The complainant in her deposition 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 the petitioners, the copy of which is on record as Ex.CW1/B. She has stated as indicated also in the proceedings dated 13.04.2015 in HMA No. 200/15 of the Principal Judge, (North West), Family Courts, Rohini, Delhi that the petitioner no. 1 and she are living together w.e.f. 05.05.2015.

The complainant in reply to a specific Court query has stated that there are no problems between her and the petitioner no. 1 nor there are any problems now between her and the petitioners no. 2 & 6 and she does not oppose the prayer made by the petitioners seeking quashing of the FIR No. 88/15, registered at PS Begum Pur, under Section 498A/406/34 of the Indian Penal Code, 1860 nor does she want them 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 is well educated with an M.A. in literature.

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 which has since been resolved and the petitioner no. 1 and the respondent no. 2 are living happily alongwith their minor child aged 4-½ years, 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 FIR No. 88/15, registered at PS Begum Pur, under Section 498A/406/34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner. In view thereof the FIR No. 88/15, registered at PS Begum Pur, under Section 498A/406/34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner no. 1 Virender s/o Sh. Dharmpal, the petitioner no. 2 Dharmpal s/o Sh. Chattar Singh, the petitioner no. 3 Smt. Gulabo Devi w/o Sh. Dharmpal, the petitioners no. 4 Rajesh Kumar s/o Sh. Dharmpal, the petitioner no. 5 Smt. Dharamwati w/o Sh. Rajesh and the petitioner no. 6 Krishna Devi w/o Sh. Balwan Singh are quashed.

The petition is disposed of.

ANU MALHOTRA, J

APRIL 09, 2018/MK

CRL.M.C. 1722/2018

page 5 of 5

Statement of CW1 : SI Shanker Lal, PS Begum Pur, Delhi.**ON S.A.**

I identify the petitioner no. 1 Virender s/o Sh. Dharmpal, the petitioner no. 2 Dharmpal s/o Sh. Chattar Singh, the petitioner no. 3 Smt. Gulabo Devi w/o Sh. Dharampal and the petitioner no. 6 Krishna Devi w/o Sh. Balwan Singh as being the person named in the FIR No. 88/15, registered at PS Begum Pur, under Section 498A/406/34 of the Indian Penal Code, 1860. The petitioner no. 5 has not been charge-sheeted. I have identified the photographs of the petitioners no. 4 Rajesh Kumar s/o Sh. Dharmpal and the petitioner no. 5 Smt. Dharamwati w/o Sh. Rajesh on record, who are not present today in the Court as being the other accused persons in the said FIR, who have been charge-sheeted. I also identify the respondent no. 2 Rajani present today in the court as being the complainant of the said FIR.

The photocopy of the Aadhar Card of the petitioner no. 1 is Ex.CW1/A. The petitioner no. 2 has produced original Aadhar Card bearing no. 3730 7180 5329, photocopy of the same be filed. The photocopy of the Aadhar Card of the petitioner no. 3 is Ex.CW1/B. The photograph of the petitioner no. 4 is on record as Ex.CW1/C, I have identified. Likewise the photograph of the petitioner no. 5 is on record as Ex.CW1/D. The petitioner no. 6 has produced the identity card issued by the Directorate of the Family Welfare, photocopy of the same be placed on record. The photocopy of the

Aadhar Card of the respondent no. 2 is Ex.CW1/E (original seen and returned).

RO & AC
APRIL 09, 2018/MK

ANU MALHOTRA, J

Statement of CW2 : Rajani w/o Sh. Virender d/o Sh. Ranbir Singh, aged 33 years r/o C-25, Phase-I, Budh Vihar, Delhi and previously r/o C-1/70, Sector-20, Rohini, Delhi-86.

ON S.A.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No. 88/15, registered at PS Begum Pur, under Section 498A/406/34 of the Indian Penal Code, 1860 nor I do want the petitioners to be punished in relation thereto in as much as the petitioners and I are living together since 05.05.2015 alongwith my minor child aged 4-½ years born of the wedlock. There are now no problems between me and the petitioner no.1. There are now no problems between me and the petitioners no. 2 to 6 also. My affidavit annexed to the petition bears my signature thereon at points-A and B on Ex.CW2/A. The settlement documents bears my signature thereon at point-A on Ex.CW2/B which I have signed voluntarily of my own accord without any duress, pressure or coercion from any quarter. I have done my M.A. in literature.

**RO & AC
APRIL 09, 2018/MK**

ANU MALHOTRA, J