

\$~26

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

+ **CRL.M.C. 1860/2018**

LALT SINGH BISTH & ORS Petitioner

Through: **Mr. Ramesh Kumar Sharma,**
Advocate

versus

THE STATE (NCT OF DELHI) & ANR Respondent

Through: **Mr. Alok Sharma, Advocate for R-2**
Mr. Sanjeev Sabharwal, APP for the
State

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

%

13.04.2018

Vide the present petition, the petitioners seek quashing of the FIR No.00655 /2015, PS Mayur Vihar under Sections 406/498A/34 of the Indian Penal Code, 1860 in view of the settlement arrived at between respondent no.2 and the petitioners during the course of the mediation proceedings at Delhi Mediation Centre, Karkardooma Courts, Delhi, attested copy of which is on record which bears the signatures of respondent no. 2 at point A on EX CW2/A. The marriage between the respondent no.2 and petitioner no. 1 has been dissolved through mutual consent by decree of divorce dated 23.01.2018 in HMA No. 08/2018 under Section 13-B(2) of the Hindu

Marriage Act, 1955. Attested copy of the same is EX CW2/D. Affidavit of respondent no.2 is annexed to the petition which bears her signatures at point A is EX CW2/C.

The Investigating Officer of the instant case is present today in the Court and has identified the petitioner no. 1 Sh. Lalit Singh Bisht s/o Sh. Nandan Singh Bisht, the petitioner no. 2 Sh. Nandan Singh Bisht s/o Sh. Rudra Singh Bisht, the petitioner no. 3 Smt. Kamla Devi w/o Sh. Nandan Singh Bisht, the petitioner no. 4 Smt. Raina Bisht d/o Sh. Nandan Singh Bisht , the petitioner no. 5 Smt. Vandana Bisht d/o Sh. Nandan Singh Bisht as being the four accused persons arrayed in the FIR No.00655 /2015, PS Mayur Vihar under Sections 406/498A/34 of the Indian Penal Code, 1860. He has also identified the complainant of the said FIR, respondent no. 2 who is present in Court today. The proof of identity of the petitioners no. 1 to 5 and of the respondent no. 2 in the form of their Aadhar Cards photocopies of which are on record as Ex.CW1/A to Ex.CW1/F respectively originals seen and returned.

The respondent no.2 in her deposition on oath by this court has affirmed having signed the mediation settlement dated 26.04.2016 which has been arrived at Delhi Mediation Centre, Karkardooma Courts, Delhi, attested copy of which is on record which bears the signatures of respondent no. 2 at point A on EX CW2/A. She has further testified to affirm the dissolution of the marriage between her and the petitioner no. 1 through mutual consent by decree of divorce dated 23.01.2018 in HMA No. 08/2018 under Section 13-B(2) of the Hindu Marriage Act, 1955. Attested copy of the same is EX CW2/D.

Affidavit of respondent no.2 is annexed to the petition which bears her signatures at point A is EX CW2/C.

She has further testified to the effect that in terms of the settlement arrived at between her and the petitioners a total sum of Rs.6,00,000/- was payable to her by the petitioners of which Rs.3,00,000/- has already been received by her in her daughter's name and a sum of Rs. 2,00,000/- has also been received by her in her own name and the balance sum of Rs.1,00,000/- has been handed over to her by the petitioners vide D.D. No. 016986 dated 09.04.2018 drawn on the Corporation Bank, which is in her favour, photocopy of which is on record as Ex.CW2/B and she also stated that there is one girl child born out of the wedlock between her and the petitioner no.1 who is in her custody and shall continue to remain in her custody as per the settlement. She has further stated that she is a graduate and is working as a teacher and that she has made her statement voluntarily of her own accord without any duress, pressure or coercion from any quarter. She has further stated that she does not oppose the prayer made by the petitioners No.1 to 5 namely, petitioner no. 1 Sh. Lalit Singh Bisht s/o Sh. Nandan Singh Bisht, the petitioner no. 2 Sh. Nandan Singh Bisht s/o Sh. Rudra Singh Bisht, the petitioner no. 3 Smt. Kamla Devi w/o Sh. Nandan Singh Bisht, the petitioner no. 4 Smt. Raina Bisht d/o Sh. Nandan Singh Bisht , the petitioner no. 5 Smt. Vandana Bisht d/o Sh. Nandan Singh Bisht as being the four accused persons arrayed in the FIR No.00655 /2015, PS Mayur Vihar under Sections 406/498A/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.

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 of her own accord without any duress, pressure or coercion from any quarter. In view thereof for maintenance of peace and harmony between the petitioners and the respondent no. 2 and for the well being of the minor child, it is considered appropriate 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)

it is considered appropriate to allow the prayer made by the petitioners seeking quashing FIR No.00655 /2015, PS Mayur Vihar under Sections 406/498A/34 of the Indian Penal Code, 1860., and all the consequential proceedings emanating therefrom against the petitioners. In view thereof the FIR No.00655 /2015, PS Mayur Vihar under Sections 406/498A/34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner no. 1 Sh. Lalit Singh Bisht s/o Sh. Nandan Singh Bisht, the petitioner no. 2 Sh. Nandan Singh Bisht s/o Sh. Rudra Singh Bisht, the petitioner no. 3 Smt. Kamla Devi w/o Sh. Nandan Singh Bisht, the petitioner no. 4 Smt. Raina Bisht d/o Sh. Nandan Singh Bisht , the petitioner no. 5 Smt. Vandana Bisht d/o Sh. Nandan Singh Bisht are quashed.

The petition is disposed of.

ANU MALHOTRA, J

APRIL 13, 2018/Nk

26

CRL.M.C. 1860/2018

LALT SINGH & ORS

v. STATE & ANR

Statement of CW1 : Investigating Officer SI Mahavir Singh, PS Mayur Vihar.

ON S.A.

I identify the petitioner no. 1 Sh. Lalit Singh Bisht s/o Sh. Nandan Singh Bisht, the petitioner no. 2 Sh. Nandan Singh Bisht s/o Sh. Rudra Singh Bisht, the petitioner no. 3 Smt. Kamla Devi w/o Sh. Nandan Singh Bisht, the petitioner no. 4 Smt. Raina Bisht d/o Sh. Nandan Singh Bisht , the petitioner no. 5 Smt. Vandana Bisht d/o Sh. Nandan Singh Bisht being the five accused persons arrayed in the FIR No.00655 /2015, PS Mayur Vihar under Sections 406/498A/34 of the Indian Penal Code, 1860. I also identify the complainant of the said FIR, respondent no. 2 who is present in Court today. The proof of identity of the petitioners no. 1 to 5 and of the respondent no. 2 in the form of their Aadhar Cards, are on record as Ex.CW1/A to Ex.CW1/F respectively. (originals seen and returned).

RO & AC
APRIL 13, 2018/Nk

ANU MALHOTRA, J

26

CRL.M.C. 1860/2018
LALT SINGH & ORS
v. STATE & ANR

Statement of CW2 : Beena d/o Praveen Singh, r/o-House No. 178, Block 18, Trilokpuri, New Delhi.

ON S.A.

I do not oppose the prayer made by the petitioner no. 1 Sh. Lalit Singh Bisht s/o Sh. Nandan Singh Bisht, the petitioner no. 2 Sh. Nandan Singh Bisht s/o Sh. Rudra Singh Bisht, the petitioner no. 3 Smt. Kamla Devi w/o Sh. Nandan Singh Bisht, the petitioner no. 4 Smt. Raina Bisht d/o Sh. Nandan Singh Bisht, the petitioner no. 5 Smt. Vandana Bisht d/o Sh. Nandan Singh Bisht as being the four accused persons arrayed in the FIR No.00655 /2015, PS Mayur Vihar under Sections 406/498A/34 of the 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 during the course of the mediation proceedings at Delhi Mediation Centre, Karkardooma Courts, Delhi, attested copy of which is on record which bears my signatures at point A on EX CW2/A. The marriage between me and petitioner no. 1 has since been dissolved by decree of divorce dated 23.01.2018 in HMA No. 08/2018 under Section 13-B(2) of the Hindu Marriage Act, 1955. Attested copy of the same is EX CW2/D. My affidavit annexed to the petition which bears my signatures at point A is EX CW2/C.

In terms of the settlement arrived at between me and the petitioners a total sum of Rs.6,00,000/- was payable to me by the petitioners of which

Rs.3,00,000/- has been paid in the name of my daughter and a sum of Rs. 2,00,000/- has been paid in my name previously and the balance sum of Rs.1,00,000/- has been handed over to me by the petitioners vide D.D. No. 426959 dated 12.04.2018 drawn on the Corporation Bank, which is in my favour, photocopy of which is on record as Ex.CW2/B. There is one girl child born out of the wedlock between me and the petitioner no. 1 who is in my custody and shall continue to remain in my custody in view of the settlement arrived at between me and the petitioners. There are no claims of mine left against the petitioners. I am a graduate and I am working as a teacher. I have made this statement voluntarily of my own accord without any duress, pressure or coercion from any quarter.

RO & AC
APRIL 13, 2018/Nk

ANU MALHOTRA, J