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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 1822/2018

RAJU @ ANIL & ORS

..... Petitioner

Through: Mr. Dinesh Malik, Adv with Me.
Manish Malik, Mr. Akash Saini,
Advocates.

versus

STATE & ANR

..... Respondents

Through: Mr. Kewal Singh Ahuja, APP for
State with ASI Inder Kumar, PS
Aman Vihar.
Respondent no. 2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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12.04.2018

Vide the present petition, the petitioners seek quashing of the FIR No.545/2013, PS Aman Vihar under Sections 498-A/406/34 of the Indian Penal Code, 1860 and all consequential proceeding emanating therefrom submitting to the effect that a settlement has been arrived at between the parties and that the respondent no. 2 is now living with the petitioner no. 1 peacefully and she has also now no problems with the respondent nos. 2 to 5.

The Investigating Officer of the instant case is present today in the Court and has identified the petitioner no. 1 Sh. Raju s/o Sh. Hari Singh, petitioner no. 2 Sh. Kaushal @ Kaushaliya w/o Sh. Hari Singh, petitioner no. 3 Sh. Hari Singh s/o Sh. Ganga Ram, petitioner no. 4

Sh. Kuldeep s/o Sh. Hari Singh and the petitioner no. 5 Mr. Rahul s/o Sh. Hari Singh as being the five accused persons arrayed in the FIR No.545/2013, PS Aman Vihar under Sections 498-A/406/34 of the Indian Penal Code, 1860 and there are no other persons arrayed as accused in the said FIR. He has also identified the respondent no. 2 Ms. Babli as being the complainant thereof. The proof of identity of the petitioner nos. 1 to 5 and of the respondent no. 2 in the form of photocopies of their Aadhar Cards are on the record as Ex. CW1/A to Ex. CW2/F respectively, originals of which have been seen and returned.

The respondent no.2 in her deposition on oath by this court has affirmed having sworn her affidavit Ex. CW2/A annexed to the petition and has testified to the effect that she is living with the petitioner no. 1 since the year 2014 without any problems. She has further testified to the effect that there is one child namely Khushboo born out of the wedlock between her and the petitioner no.1 on 21.10.2015, i.e., much after the registration of the present FIR which has got registered in the year 2013. She has further stated that she does not oppose the prayer made by the petitioner no. 1 Sh. Raju s/o Sh. Hari Singh, petitioner no. 2 Sh. Kaushal @ Kaushaliya w/o Sh. Hari Singh, petitioner no. 3 Sh. Hari Singh s/o Sh. Ganga Ram, petitioner no. 4 Sh. Kuldeep s/o Sh. Hari Singh and the petitioner no. 5 Mr. Rahul s/o Sh. Hari Singh seeking quashing of the FIR No.545/2013, PS Aman Vihar under Sections 498-A/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 them.

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 and of the respondent no. 2 herself, 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 of FIR No.545/2013, PS Aman Vihar under Sections 498-A/406/34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners. In view thereof the FIR No.545/2013, PS Aman Vihar under Sections 498-A/406/34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners are quashed.

The petition is disposed of.

ANU MALHOTRA, J

APRIL 12, 2018/NC

CRL.M.C. 1822/2018

RAJU @ ANIL & ORS versus

STATE & ANR

Statement of CW1 : Investigating Officer ASI Inder Kumar, PS Aman Vihar.

ON S.A.

I identify the petitioner no. 1 Sh. Raju s/o Sh. Hari Singh, petitioner no. 2 Sh. Kaushal @ Kaushaliya w/o Sh. Hari Singh, petitioner no. 3 Sh. Hari Singh s/o Sh. Ganga Ram, petitioner no. 4 Sh. Kuldeep s/o Sh. Hari Singh and the petitioner no. 5 Mr. Rahul s/o Sh. Hari Singh as being the five accused persons arrayed in the FIR No.545/2013, PS Aman Vihar under Sections 498-A/406/34 of the Indian Penal Code, 1860 and there are no other persons arrayed as accused in the said FIR. I also identify the respondent no. 2 Ms. Babli as being the complainant thereof. The proof of identity of the petitioner nos. 1 to 5 and of the respondent no. 2 in the form of photocopies of their Aadhar Cards are on the record as Ex. CW1/A to Ex. CW2/F respectively. (Originals seen and returned.)

RO & AC
APRIL 12, 2018

ANU MALHOTRA, J

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CRL.M.C. 1822/2018

RAJU @ ANIL & ORS versus

STATE & ANR

Statement of CW2 : Smt. Babli, w/o Sh. Raju @ Anil, d/o Sh. Rampal, aged 30 years, r/o Agar Nagar, Gali No. 4, Chanchalwala Road, Parvesh Nagar, Delhi.

ON S.A.

I do not oppose the prayer made by the petitioner no. 1 Sh. Raju s/o Sh. Hari Singh, petitioner no. 2 Sh. Kaushal @ Kaushaliya w/o Sh. Hari Singh, petitioner no. 3 Sh. Hari Singh s/o Sh. Ganga Ram, petitioner no. 4 Sh. Kuldeep s/o Sh. Hari Singh and the petitioner no. 5 Mr. Rahul s/o Sh. Hari Singh seeking quashing of the FIR No.545/2013, PS Aman Vihar under Sections 498-A/406/34 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 the parties.

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. There is one child namely Khushboo born out of the wedlock between me and the petitioner no.1 on 21.10.2015, i.e., much after the registration of the present FIR registered in the year 2013.

I am living with the petitioner no. 1 since the year 2014 without any problems. I am not educated and I am a house wife.

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

**RO & AC
APRIL 12, 2018**

ANU MALHOTRA, J