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

+ **CRL.M.C. 1858/2018**

SACHIN VAID & ORS

..... Petitioner

Through: Mr. Sameer Dewan, Advocate with
Petitioners-in-person

versus

STATE (GOVT OF NCT OF DELHI) & ANR Respondent

Through: Mr. Mr. Izhar Ahmad, APP for State
Mr. Nitin Arora, Advocate for Himani
Khera, respondent no.2

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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13.04.2018

Vide the present petition, the petitioners seek quashing of the FIR No.0265 /2017, PS Bharat Nagar 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 in HMA 360/2018 dated 17.02.2018 of the Judge Family Court North-West, Rohini , certified copy of which is on record and bears the signatures of respondent no. 2 thereon on each page 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 1.3.2018 in HMA No. 360/2018 under Section 13-B(2) of the Hindu Marriage Act, 1955. Certified copy of the same 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. Sachin Vaid s/o Sh. Keval Vaid, the petitioner no. 2 Sh. Keval Vaid s/o Sh. M.K. Vaid, the petitioner no. 3 Smt. Rachna Vaid w/o Sh.Keval Vaid, the petitioner no. 4 Smt. Neha Vaid d/o Sh. Keval Vaid as being the four accused persons arrayed in the FIR No.0265 /2017, PS Bharat Nagar 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 4 and of the respondent no. 2 in the form of their Aadhar Cards, are on record as Ex.CW1/A to Ex.CW1/E 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 17.02.2018 which has been arrived at Judge Family Court North-West, Rohini, copy of which is on the record as EX CW2/A. She has further testified to the factum of the dissolution of the marriage between her and the petitioner no. 1 mutual consent by decree of divorce dated 1.3.2018 in HMA No. 360/2018 under Section 13-B(2) of the Hindu Marriage Act, 1955. Certified copy of the same 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.10,00,000/- was payable to her by the petitioners of which Rs.7,50,000/- has already been received by her and the balance sum of Rs.2,50,000/- has been handed over to her by the petitioners vide D.D. No. 332087 dated 6.03.2018 drawn on the Kotak Mahindra Bank, which is in her

favour, photocopy of which is on record as Ex.CW2/B and also stated that there no child born out of the wedlock between her and the petitioner no. 1. She has further stated that she has done her masters and is working for the Federation of Indian Council for Direct Selling 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 4 namely, petitioner no. 1 Sh. Sachin Vaid s/o Sh. Keval Vaid, the petitioner no. 2 Sh. Keval Vaid s/o Sh. M.K. Vaid, the petitioner no. 3 Smt. Rachna Vaid w/o Sh.Keval Vaid, the petitioner no. 4 Smt. Neha Vaid d/o Sh. Keval Vaid as being the four accused persons arrayed in the FIR No.0265 /2017, PS Bharat Nagar 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.

It has been submitted on behalf of the petitioners and the respondent No.2 in reply to a specific Court query that the settlement was only for a sum of Rs.10.00 lakhs and the sums mentioned in paragraphs 8 and 9 of the petition are typographical errors.

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 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 FIR No.0265 /2017, PS Bharat Nagar 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.0265 /2017, PS Bharat Nagar under Sections 406/498A/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

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Statement of CW1 : Investigating Officer SI Satish Pal, PS Bharat Nagar.

ON S.A.

I identify the petitioner no. 1 Sh. Sachin Vaid s/o Sh. Keval Vaid, the petitioner no. 2 Sh. Keval Vaid s/o Sh. M.K. Vaid, the petitioner no. 3 Smt. Rachna Vaid w/o Sh.Keval Vaid, the petitioner no. 4 Smt. Neha Vaid d/o Sh. Keval Vaid as being the four accused persons arrayed in the FIR No.0265 /2017, PS Bharat Nagar 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 4 and of the respondent no. 2 in the form of their Aadhar Cards, are on record as Ex.CW1/A to Ex.CW1/E respectively. (originals seen and returned).

**RO & AC
APRIL 13, 2018/Nk**

ANU MALHOTRA, J

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CRL.M.C. 1858/2018
SACHIN VAID & ORS
v. STATE & ANR

**Statement of CW2 : Himani Khera d/o Baldev Raj Khera, r/o-B-37,GT
Karnal Road, Shanjar Pur, N.S.Mandi, North West Delhi, Delhi-110033
31 years
ON S.A.**

I do not oppose the prayer made by the petitioner no. 1 Sh. Sachin Vaid s/o Sh. Keval Vaid, the petitioner no. 2 Sh. Keval Vaid s/o Sh. M.K. Vaid, the petitioner no. 3 Smt. Rachna Vaid w/o Sh.Keval Vaid, the petitioner no. 4 Smt. Neha Vaid d/o Sh. Keval Vaid as being the four accused persons arrayed in the FIR No.0265 /2017, PS Bharat Nagar 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 in HMA 360/2018 dated 17.02.2018 of the Judge Family Court North-West, Rohini , certified copy of which is on record which bears my signatures thereon on each page thereof at point A on EX CW2/A. The marriage between me and petitioner no. 1 has since been dissolved by decree of divorce dated 1.3.2018 in HMA No. 360/2018 under Section 13-B(2) of the Hindu Marriage Act, 1955. Certified copy of the same is EX CW2/C.

In terms of the settlement arrived at between me and the petitioners a total sum of Rs.10,00,000/- was payable to me by the petitioners of which Rs.7,50,000/- has already been received by me and the balance sum of Rs.2,50,000/- has been handed over to me by the petitioners vide D.D. No. 332087 dated 06.03.2018 drawn on the Kotak Mahindra Bank, which is in

my favour, photocopy of which is on record as Ex.CW2/B. There is no child born out of the wedlock between me and the petitioner no. 1. There are no claims of mine left against the petitioners. I have done my masters in English. I am working for the Federation of Indian Council for Direct Selling. 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