

\$~82

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

+ **CRL.M.C. 1955/2018**

RITA DHARA & ORS

..... Petitioner

Through Mr. Lohit Ganguly, Ms. Anita
Sharma, Advs. with P1 to P3 in
person.

versus

THE STATE (GNCT OF DELHI)& ANR Respondent

Through Mr. Sanjeev Sabharwal, APP for State
with SI Sunil Kumar PS Govind Puri.
Mr. Anubhav Bhasin, Adv. for R2
with R2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

%

17.04.2018

Learned counsel for the respondent no. 2 submits that the vakalatnama would be filed during the course of the day. The same be filed accordingly.

Vide the present petition, the petitioners seek quashing of FIR No. 1576/15, registered at PS Govind Puri under Section 498A/406/34 of the Indian Penal Code, 1860 with further submissions having been made during the course of the present proceedings and charges were also framed under Section 354/34 of the Indian Penal Code, 1860 vide order dated 23.05.2017 of the learned MM (South East), Delhi submitting to the effect that a settlement has been arrived at between them vide a mediation settlement dated 03.04.2018 copy of which issued by the Mediation Centre, Saket Courts, New Delhi is on the record as Ex.CW2/A.

CRL.M.C. 1955/2018

page 1 of 6

The Investigating Officer of the case has identified the petitioners as being the accused of the FIR in question and has submitted that the co-accused Mr. Utsav Dhara also named as accused in the said FIR has since expired on 08.01.2018. The death certificate issued by the SDMC in relation to demise of Mr. Utsav Dhara is on the record as Ex.CW1/A. Investigating Officer has also identified the respondent no. 2 as being the complainant thereof. The proof of identity of the petitioners no. 1 to 3 and of the respondent no. 2 are on the record in the form of photocopies produced by them as Ex.CW1/B to Ex.CW1/D & Ex.CW1/E originals of which have been seen and returned.

The respondent no.2 in her examination on oath by the Court has affirmed the factum of the matter between the petitioners and the respondent no. 2 having been settled pursuant to the mediation settlement dated 26.07.2017 copy of which issued by the Mediation Centre, Saket Courts, New Delhi is Ex.CW2/B and in terms of the settlement arrived at between them as per the settlement Ex.CW2/A, a total sum of Rs.3,85,000/- was to be paid to her by the petitioners of which a sum of Rs.2,25,000/- has already been received by her and the balance sum of Rs.1,60,000/- has been handed over today to her by the petitioners vide D.D. No. 282160 dated 11.04.2018 drawn on the Central Bank of India, photocopy of which is on record as Ex.CW2/C and now there are no claims of hers left against the petitioners. She has stated that there is no child of the wedlock between her and the petitioner no. 1. The respondent no. 2 submits that she does not oppose the prayer made by the petitioners seeking quashing of the FIR No. 1576/15,

registered at PS Govind Puri under Section 498A/406/34 of the Indian Penal Code, 1860 and also registered under Section 354/34 of the Indian Penal Code, 1860 nor does she want the petitioners to be punished in relation thereto.

Learned APP for the State submits that in the circumstances of the case, 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.

The respondent no. 2 is apparently sufficiently educated to understand her submissions in view of her submissions that she has done graduation and is taking coaching for further studies and there appears no reason to disbelieve that the respondent no. 2 has made her statement voluntarily of her own accord without any duress, coercion or pressure from any quarter. It is thus considered essential for maintenance of peace and harmony between the petitioners and the respondent no.2 to put *a quietus* to the litigation 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. 1576/15, registered at PS Govind Puri under Section 498A/406/34 of the Indian Penal Code, 1860 and also registered under Section 354/34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner. In view thereof the FIR No. 1576/15, registered at PS Govind Puri under Section 498A/406/34 of the Indian Penal Code, 1860 and also registered under Section 354/34 of the Indian Penal Code, 1860 against the petitioners

are quashed.

The petition is disposed of.

ANU MALHOTRA, J

APRIL 17, 2018/MK

CRL.M.C. 1955/2018

page 6 of 6

82

CRL.M.C. 1955/2018

RITA DHARA & ORS versus

THE STATE (GNCT OF DELHI) & ANR

Statement of CW1 : SI Sunil Kumar PS Govind Puri, Delhi.

ON S.A.

Apart from the petitioner no. 1 to 3, there was Mr. Utsav Dhara also named as accused in the FIR No. 1576/15, registered at PS Govind Puri under Section 498A/406/34 of the Indian Penal Code, 1860 who has since expired. The death certificate issued by the SDMC in relation to demise of Mr. Utsav Dhara on 08.01.2018 is on record as Ex.CW1/A.

The charge was also framed under Section 354/34 of the Indian Penal Code, 1860.

I identify the petitioner no. 1 to 3 present today in the Court. I also identify the respondent no. 2 as being the complainant of the said FIR. The proof of identity of the petitioners no. 1 to 3 and of the respondent no. 2 are on record in the form of photocopies produced by them as Ex.CW1/B to Ex.CW1/D & Ex.CW1/E (originals seen and returned).

RO & AC
APRIL 17, 2018/MK

ANU MALHOTRA, J

Statement of CW2 : Shashi d/o Late Sh. Ghanchand r/o 1287-B, Transit Camp, Govindpuri, Delhi.

ON S.A.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No. 1576/15, registered at PS Govind Puri under Section 498A/406/34 of the Indian Penal Code, 1860 and under Section 354/34 of the Indian Penal Code, 1860 in relation to which the charge was framed on 23.05.2017 nor I do want the petitioners to be punished in relation thereto. A settlement has been arrived at between me and the petitioners vide mediation settlement dated 03.04.2018 copy of which issued by the Mediation Centre, Saket Courts, New Delhi bears my signatures thereon as visible at point-A on each page thereof as Ex.CW2/A. A previous settlement has been arrived at between me and Mr. Utsav Dhara to whom I was married and who has since expired and the said mediation settlement dated 26.07.2017 bears my signatures thereon at point-A copy of which issued by Mediation Centre, Saket Courts, New Delhi as Ex.CW2/B. In terms of the settlement arrived at between me and the petitioners no. 1, 2 & 3 as per settlement Ex.CW2/A, a total sum of Rs.3,85,000/- was to be paid to me by the petitioners of which a sum of Rs.2,25,000/- has already been received by me and the balance sum of Rs.1,60,000/- has been handed over to me by the petitioners vide D.D. No. 282160 dated 11.04.2018 drawn on Central Bank of India, photocopy of which is on record as Ex.CW2/C. Now there are no claims of mine left

against the petitioners. There is no child of the wedlock between me and the petitioner no. 1. I am a graduate and I am taking coaching for further studies. I have made this statement voluntarily of my own accord without any duress, pressure or coercion from any quarter.

RO & AC
APRIL 17, 2018/MK

ANU MALHOTRA, J