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

+ CRL.M.C. 2249/2018

SUNNY ROTRA & ORS

..... Petitioners

Through: Mr. Prashant Choudhary, Advocate.

versus

STATE (GOVT OF NCT OF DELHI) & ANR Respondents

Through: Mr. Izhar Ahmad, APP for State.

R-2 in person with Mr. Pankaj
Paliwal, Advocate for R-2.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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01.05.2018

Mr. Pankaj Paliwal, Advocate present on behalf of the respondent no. 2 submits that he will be filing his vakalatnama during the course of the day. The same be filed accordingly.

Vide the present petition, the petitioners seek quashing of the FIR No. 446/2016, PS Vivek Vihar, under Sections 498-A/406/34 of the Indian Penal Code, 1860 submitting to the effect that a settlement has been arrived at between the parties and that all the disputes between them have amicably resolved.

The Investigating Officer of the case is present today in the Court and has identified the petitioner no. 1 Sunny Rotra, petitioner no. 2 Kamal Kant Rotra, petitioner no. 3 Kanchan Rotra, petitioner no. 4 Sahil Rotra and petitioner no. 5 Monika Khanna as being the five accused arrayed in the FIR No. 446/2016, PS Vivek Vihar, under

Sections 498-A/406/34 of the Indian Penal Code, 1860. He has also identified the respondent no.2, Ms. Rupal Sahni present today in Court as being the complainant of the said FIR. The proofs of identity of the petitioner nos. 1 to 5 and of the respondent no. 2 in the form of photocopies of their documents produced by them are on the record as Ex. CW1/A to Ex. CW1/F, originals of which have been seen and returned.

The respondent no. 2 in her deposition on oath on examination by this Court has affirmed having sworn her affidavit Ex. CW2/A annexed to the petition. She has testified to the effect that the marriage between her and the petitioner no. 1 has since been dissolved by a decree of divorce through mutual consent under Section 15 of the J & K Hindu Marriage Act, 1980 and the copy thereof is on the record as Ex. CW2/B. She has further testified to the effect that in terms of the settlement arrived at between her and the petitioners, a sum of Rs. 13 lakhs was to be paid to her by the petitioners which amount she had already received by the petitioners and that she had also received her clothing and gold articles from the petitioners and states that there are now no claims of hers left against the petitioners. She has further submitted that there is no child born out of the wedlock between her and the petitioner no. 1. The respondent no.2 has further testified to the effect that she has done her M.B.A and she teaches in a school.

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, non-opposition on behalf of the State, the identification of the petitioners and the respondent no. 2 by the Investigating Officer of the case, the testimony of the respondent no. 2 indicates that all her claims have been settled and that there is no child born out of the wedlock between the petitioner no. 1 and the respondent no. 2 and that the marriage between the petitioner no. 1 and the respondent no. 2 has since been dissolved vide a decree of divorce through mutual consent under Section 15 of the J & K of the HMA, 1980.

Taking into account the aspect that the respondent no. 2 is well educated and teaching in a school and that she is capable of understanding the implications of the statement made by her, 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)

In view thereof, the FIR No. 446/2016, PS Vivek Vihar, under Sections 498-A/406/34 of the Indian Penal Code, 1860 against the petitioners and all consequential proceedings emanating therefrom are quashed.

The petition is disposed of.

ANU MALHOTRA, J

**MAY 01, 2018
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CRL.M.C. 2249/2018
SANJAY ROTRA & ORS.
Vs. STATE & ANR

Statement of CW1 : SI VEENA, PS VIVEK VIHAR, DELHI.

ON S.A.

I identify the petitioner no. 1 Sunny Rotra, petitioner no. 2 Kamal Kant Rotra, petitioner no. 3 Kanchan Rotra, petitioner no. 4 Sahil Rotra and petitioner no. 5 Monika Khanna as being the five accused arrayed in the FIR No. 446/2016, PS Vivek Vihar, under Sections 498-A/406/34 of the Indian Penal Code, 1860. I also identify the respondent no.2, Ms. Rupal Sahni present today in Court as being the complainant of the said FIR. The proofs of identity of the petitioner nos. 1 to 5 and of the respondent no. 2 in the form of photocopies of their documents produced by them are on the record as Ex. CW1/A to Ex. CW1/F respectively. (Originals seen and returned.)

ANU MALHOTRA, J

**RO & AC
MAY 01, 2018**

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CRL.M.C. 2249/2018

SANJAY ROTRA & ORS.

Vs. STATE & ANR

Statement of CW2 : Ms. Rupal Sahni, d/o Sh. Sunil Sahni, aged 31 years, r/o C-40, Surajmal Vihar, Delhi.

ON S.A.

I do not oppose the prayer made by the petitioner no. 1 Sunny Rotra, petitioner no. 2 Kamal Kant Rotra, petitioner no. 3 Kanchan Rotra, petitioner no. 4 Sahil Rotra and petitioner no. 5 Monika Khanna seeking quashing of the FIR No. 446/2016, PS Vivek 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 me and the petitioners.

My affidavit annexed to the petition bears my signatures thereon at point A & B on Ex. CW2/A. The marriage between me and the petitioner no. 1 has since been dissolved by a decree of divorce through mutual consent under Section 15 of the J & K Hindu Marriage Act, 1980 and the copy thereof is on the record as Ex. CW2/B. In terms of the settlement arrived at between me and the petitioners, a sum of Rs. 13 lakhs was to be paid to me by the petitioners which amount has since been received by me previously by the petitioners. I have also received my clothing and gold articles from the petitioners. There is no child born out of the wedlock between me and the petitioner no. 1.

I have done my M.B.A and I work in a school.

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

ANU MALHOTRA, J

RO & AC

MAY 01, 2018