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

+ **CRL.M.C. 2168/2018**

ABHISHEK SABHARWAL & ANR

..... Petitioners

Through: Mr. Bhano Kathpalia & Mr. Praney
Jain, Advocates.

versus

STATE OF DLEHI & ANR

..... Respondents

Through: Mr. Hirein Sharma, APP for State
with W/SI Anita, PS Paschim Vihar.
Ms. Gita Dhingra, Adv for
complainant.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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26.04.2018

Vide the present petition, the petitioners seek quashing of the FIR No. 445/15, PS Paschim Vihar under Sections 498-A/406/506/34 of the Indian Penal Code, 1860 submitting to the effect that a settlement has since been arrived at between the parties and all the disputes have been amicable resolved.

The Investigating Officer of the case is present and has identified the petitioner no. 1 Abhishek Sabharwal and petitioner no. 2 Manju Sabharwal as being the two accused arrayed in the FIR No. 445/15, PS Paschim Vihar under Sections 498-A/406/506/34 of the Indian Penal Code, 1860 and has stated that there are no other persons named as accused in the said FIR. He has also identified the

respondent no. 2, Ms. Sakshi Sabharwal as being the complainant thereof. The proofs of identity of the petitioner nos. 1 & 2 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. CW1/C, 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 and has also testified to having signed the settlement agreement dated 10.08.2017 voluntarily of her own accord without any duress, coercion or pressure from any quarter, copy of which 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 total sum of Rs. 55,00,000/- (Fifty Five Lakhs) was agreed to be paid to her by the petitioners, out of which a sum of Rs. 37,50,000/- (Thirty seven lakhs fifty thousand) has already been received by her and a sum of Rs. 17,50,000/- (Seventeen lakhs fifty thousand) has been handed over to her today by the petitioners vide a demand draft bearing no. 682095 dated 10.04.2018 in her favour, i.e., in the name of Sakshi Sabharwal drawn on the Kotak Mahindra Bank, photocopy of which is on the record as Ex. CW2/C and has stated that there are now no claims of hers left against the petitioners. She has also submitted that in terms of the settlement arrived at between her and the petitioner no. 1, the minor child born out of the wedlock between her and the petitioner no. 1 is in her custody and shall continue to remain in her custody and that the marriage between her

and the petitioner no. 1 has since been dissolved by a decree of divorce through mutual consent in HMA No. 208/18 vide a decree dated 07.03.2018 of the Court of the Addl. Principal Judge, Family Court (West), Delhi voluntarily of her own accord, copy thereof is on the record as Ex. CW2/D. She has further stated that she does not oppose the prayer made by the petitioners seeking quashing of the FIR No. 445/15, PS Paschim Vihar under Sections 498-A/406/506/34 of the Indian Penal Code, 1860 in view of the settlement arrived at between her and the petitioners nor does she want them to be punished in relation thereto.

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 deposition of the respondent no. 2 and as there appears no reason to disbelieve her statement that she has arrived at a settlement with the petitioners voluntarily and that she understand the implications of the statement made by her and as the FIR has apparently emanates from a matrimonial discord which has been dissolved vide dissolution of marriage between the petitioner no. 1 and the respondent no. 2, for maintenance of peace and harmony between the parties and for the well being of the minor child and of the respondent no. 2, 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)

the FIR No. 445/15, PS Paschim Vihar under Sections 498-A/406/506/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioners are quashed
The petition is disposed of accordingly.

ANU MALHOTRA, J

APRIL 26, 2018
NC

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CRL.M.C. 2168/2018

ABHISHEK SABHARWAL & ANR. versus
STATE & ANR.

Statement of CW-1 SI Anita, PS Paschim Vihar.

ON S.A.

I identify the petitioner no. 1 Abhishek Sabharwal and petitioner no. 2 Manju Sabharwal as being the two accused arrayed in the FIR No. 445/15, PS Paschim Vihar under Sections 498-A/406/506/34 of the Indian Penal Code, 1860. There are no other persons named as accused in the said FIR. I also identify the respondent no. 2, Ms. Sakshi Sabharwal as being the complainant thereof. The proofs of identity of the petitioner nos. 1 & 2 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. CW1/C respectively. (Originals seen and returned).

RO & AC
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ANU MALHOTRA, J

Statement of CW-2 Ms. Sakshi Sabharwal, d/o Late Sh. M.L. Kohli, age 33 years, r/o, 291, Behra Enclave, Paschim Vihar, Delhi.

ON S.A.

My affidavit annexed to the petition bears my signatures thereon at points A & B on Ex. CW2/A. The settlement agreement dated 10.08.2017 bears my signatures thereon at point A on Ex. CW2/B. I have signed both these documents voluntarily of my own accord without any duress, coercion or pressure from any quarter.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No. 445/15, PS Paschim Vihar under Sections 498-A/406/506/34 of the Indian Penal Code, 1860 in view of the settlement arrived at between me and the petitioners nor do I want them to be punished in relation thereto.

In terms of the settlement arrived at between me and the petitioners, a total sum of Rs. 55,00,000/- (Fifty Five Lakhs) was agreed to be paid to me by the petitioners, out of which a sum of Rs. 37,50,000/- (Thirty seven lakhs fifty thousand) has already been received by me and a sum of Rs. 17,50,000/- (Seventeen lakhs fifty thousand) has been handed over to me today by the petitioners vide a demand draft bearing no. 682095 dated 10.04.2018 in my favour, i.e., in the name of Sakshi Sabharwal drawn on the Kotak Mahindra Bank, photocopy of which is on the record as Ex. CW2/C. There are now no claims of mine left against the petitioners.

In terms of the settlement arrived at between me and the petitioner no.

1, the minor child born out of the wedlock between me and the petitioner no. 1 is in my custody and shall continue to remain in my custody. The marriage between me and the petitioner no. 1 has since been dissolved by a decree of divorce through mutual consent in HMA No. 208/18 vide a decree dated 07.03.2018 of the Court of the Addl. Principal Judge, Family Court (West), Delhi voluntarily of my own accord, copy thereof is on the record as Ex. CW2/D.

I am a graduate.

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

RO & AC
APRIL 26, 2018/NC

ANU MALHOTRA, J