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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 1956/2018

SAURBH MAHESHWARI & ANR

..... Petitioners

Through: Petitioners in person with Mr. Dinesh
Garg, Advocate.

versus

SATTE & ANR

..... Respondents

Through: Mr. Sanjeev Sabharwal, APP for State
with SI Shri Gopal, PS Shakar Pur.
R-2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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18.04.2018

Vide the present petition, the petitioners seek quashing of the FIR no.478/2007, PS Shakarpur under Sections 498-A/304-B/34 of the Indian Penal Code, 1860 to the extent that it now survives only under Section 498-A/34 of the IPC against them submitting to the effect that a settlement has been arrived at between the petitioners and the respondent no. 2 inasmuch as the daughter of the respondent no. 2 namely Anshu Maheshwari has already expired and that the petitioner nos. 1 & 2 have already been discharged vide order dated 08.12.2009 of the Court of the ASJ-3, East qua the alleged commission of offence punishable under Section 304-B & 406 r/w 34 of the Indian Penal Code, 1860 which order has been upheld by this Court on 06.08.2013 in CRL.REV.P.369/10 and that in terms of the settlement arrived at between

the parties to the petition, i.e., petitioner nos.1 & 2 and the respondent no. 2, all claims due of the respondent no. 2 Mr. Anil Maheshwari to the tune of Rs. 2,50,000/- have already been paid to him.

The Investigating Officer of the case is present today and has identified the petitioner no. 1 Saurabh Maheshwari and petitioner no. 2 Gaurav Maheshwari as being the two accused arrayed in the FIR no.478/2007, PS Shakarpur under Sections 498-A/304-B/34 of the Indian Penal Code, 1860 and has also identified the respondent no. 2 as being the complainant thereof and has testified to the factum of the demise of Anshu Maheshwari daughter of the respondent no. 2 who as per the proceedings dated 26.10.2015 before the Mediation Centre, KKD Courts vide a mediation settlement Ex. CW2/B is indicated to have expired on 29.06.2007 which fact has also affirmed by the State.

The respondent no. 2 father of the deceased who is the complainant of the said FIR has affirmed the factum of the settlement arrived at between him and the petitioners and has also affirmed having signed the mediation settlement dated 26.10.2015, copy of which is on the record as Ex. CW2/B and has also affirmed the factum of receipt of a sum of Rs. 2,50,000/- from the petitioners in relation to all his claims.

It is apparent that in the circumstances of the case that the proceedings under Section 304-B/406 of the Indian Penal Code, 1860 against the petitioner nos. 1 & 2 have already been closed by the discharge of the accused persons in relation thereof and that the daughter of the respondent no. 3 having already expired and all the claims between the petitioners and the respondent no. 2 having already been settled, no useful

purpose will be served in further continuation of the proceedings between them.

It is thus considered appropriate to put a quietus to the litigation between the parties and for maintenance of peace and harmony 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. 478/2007, PS Shakarpur under Sections 498-A/34 of the Indian Penal Code, 1860 against the petitioner no. 1 and 2 and all consequential proceedings emanating therefrom are thus quashed.

The petition is disposed of.

ANU MALHOTRA, J

**APRIL 18, 2018
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CRL.M.C. 1956/2018

SAURABH MAHESHWARI & ANR.

Vs. STATE & ANR.

Statement of CW1 : SI Shri Gopal, PS Shakar Pur.

ON S.A.

I identify the petitioner no. 1 Saurabh Maheshwari and petitioner no. 2 Gaurav Maheshwari as being the two accused arrayed in the FIR no.478/2007, PS Shakarpur under Sections 498-A/304-B/34 of the Indian Penal Code, 1860 inasmuch as the petitioner nos. 1 & 2 have already been discharged vide order dated 08.12.2009 of the Court of the ASJ-3, East qua the alleged commission of offence under Section 304-B & 406 r/w 34 of the Indian Penal Code, 1860. I also identify the respondent no. 2 Mr. Anil Maheshwari and the daughter of the respondent no. 2 Anshu Maheshwari has already expired. The proof of identity of the petitioner no. 1 and of the respondent no. 2 in the form of photocopies of their Election Commission Identity Card and Aadhar Card respectively are on the record as Ex. CW1/A & Ex. CW1/B (Originals seen and returned.)

ANU MALHOTRA, J

RO & AC

APRIL 18, 2018

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CRL.M.C. 1956/2018

SAURABH MAHESHWARI & ANR.

Vs. STATE & ANR.

Statement of CW2 : Anil Maheshwari, s/o Late Sh. Devki Nandan, age 61 years, r/o 148-C, Block D-1, Gali no. 3, Ashok Nagar, Delhi.

ON S.A.

My affidavit annexed to the petition bears my signature thereon at points A & B on Ex. CW2/A which I have signed voluntarily of my own accord. I do not oppose the prayer made by the petitioners seeking quashing of the FIR no.478/2007, PS Shakarpur under Sections 498-A/304-B/34 of the Indian Penal Code, 1860 in view of the settlement arrived at between me and the petitioner no. 1 at Delhi Mediation Centre, KKD Courts on 26.10.2015, copy of which mediation settlement bears my signatures on Ex. CW2/B. My daughter Anshu Maheshwari has since expired on 29.06.2007. The petitioner nos. 1 & 2 have already been discharged qua the offence punishable under Sections 304-B/406 of the Indian Penal Code, 1860 vide order dated 08.12.2009 of the Court of the ASJ-3, East which order has been upheld by this Court on 06.08.2013 in CRL.REV.P.369/10 and the certified copy of the said order is on the record as Ex. CW2/C.

In terms of the settlement arrived at between me and the petitioners, a total sum of Rs. 2,50,000/- had been agreed to be paid to me by the petitioners which has since been paid to me by the petitioners.

I have studied till Standard 12th and I run a shop.

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

ANU MALHOTRA, J

RO & AC

APRIL 18, 2018