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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 2132/2018 & CRL.M.A. 7622/2018
NEETESH SHARMA & ORS Petitioner
Through: Md. Jamal, Advocate.

versus

THE STATE (NCT OF DELHI) & ANR Respondent
Through: Mr. Izhar Ahmad, APP for State with SI
Arvind Kumar, PS Jait Pur.
R-2 in person with counsel.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **25.04.2018**

Vide the present petition, the petitioners seek quashing of the FIR No. 53/13, PS Jait Pur qua which the Investigating Officer present today submits that only the petitioner no. 1, i.e., Neetesh Shama has been charge sheeted in the instant case. The petitioner no. 2 and 3 and the other persons named in the FIR, i.e., Shailendra, Gaurav, Sulekha, Akanksha were put in Column no. 12 and the cognizance was taken by the court of the learned MM only against the petitioner nos. 1 to 3, i.e., Neetesh Sharma, Mahesh Chand Sharma and Nirmala Devi and the other persons were kept in Column no. 12 and have not been charge sheeted for the alleged commission of any offence.

Learned counsel for the respondent no.2 present submits that his vakalatnama is on the record.

the petitioner no. 1 Neetesh Sharma, petitioner no. 2 Mahesh Chand Sharma and petitioner no. 3 Nirmala Devi as being the persons named in the FIR No. 53/13, PS Jait Pur and has also identified the respondent no. 2, Ms. Radha Sharma as being the complainant thereof. The proofs of identity of the petitioner nos. 1 to 3 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/D respectively, originals of which have been seen and returned.

The respondent no. 2 in her testimony on oath on examination by the Court has affirmed having sworn her affidavit Ex. CW2/A annexed to the petition and has also testified to having signed the settlement deed dated 20.09.2017, copy of which is on the record as Ex. CW2/B voluntarily of her own accord without any duress, coercion or pressure from any quarter. *Inter alia* she states that the marriage between her and the petitioner no. 1 has since been dissolved by a decree of divorce through mutual consent dated 24.01.2018 in HMA No. 241/18 vide a decree of the Court of Principal Judge, South East, Saket, the certified copy thereof is on the record as Ex. CW2/C. The respondent no. 2 has stated that in terms of the settlement arrived at between her and the petitioners, a sum of Rs. 30,000/- deposited in the form of an FDR in the Court of learned MM, Ms. Monika Saroha at the time of grant of bail to the applicant-petitioner no. 1 is to be released to her after quashing of the instant FIR. She has further stated

that there would be no further claims of hers left against the petitioners

after release of sum of Rs. 30,000/-.

She has further testified to the effect that she has studied till Standard 12th and runs a beauty parlour. There appears no reason to disbelieve her statement that she has arrived at a settlement with the petitioners voluntarily and that all the disputes between her and the petitioner no. 1 have been settled and resolved, 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. 53/13 PS Jait Pur under Sections 498-A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioners are quashed.

The FDR for a sum of Rs. 30,000/- stated to be deposited in the Court of the then learned MM, Ms. Monika Saroha is directed to be released to the respondent no. 2 by the said Court/ successor Court.

The petition is disposed of.

ANU MALHOTRA, J

APRIL 25, 2018/NC

Statement of CW1 : SI Arvind Kumar, PS Jait Pur.**ON S.A.**

I identify the petitioner no. 1 Neetesh Sharma, petitioner no. 2 Mahesh Chand Sharma and petitioner no. 3 Nirmala Devi as being the persons named in the FIR No. 53/13, PS Jait Pur of whom only petitioner no. 1 has been charge sheeted. The petitioner no. 2 and 3 and the other persons named in the FIR, i.e., Shailendra, Gaurav, Sulekha, Akanksha were put in Column no. 12 and the cognizance was taken by by the court of the learned MM only against the petitioner nos. 1 to 3 and the other persons arrayed in Column no. 12. I also identify the respondent no. 2, Ms, Radha Sharma as being the complainant thereof of the FIR in question. The proofs of identity of the petitioner nos. 1 to 3 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/D respectively. (Originals seen and returned.)

RO & AC
APRIL 25, 2018/NC**ANU MALHOTRA, J**

Statement of CW2 : Ms. Radha Sharma, d/o Sh. Parmod Kumar Sharma, age 34 years, r/o B-288/3, Jaitpur Extn.

ON S.A.

My affidavit annexed to the petition bears my signatures thereon at points A & B on Ex. CW2/A. The settlement deed dated 20.09.2017 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 N. 53/13, PS Jait Pur under Sections 498-A/406/34 of the Indian Penal Code, 1860 nor do I want the petitioner nos. 1 to 3 or any of the other persons named as an accused in the FIR to be punished in relation thereto.

A settlement has since been arrived at between me and the petitioners vide a settlement dated 20.09.2017. The marriage between me and the petitioner no. 1 has been dissolved by a decree of divorce through mutual consent dated 24.01.2018 in HMA No. 241/18 vide a decree of the Court of Principal Judge, South East, Saket, the certified copy thereof is on the record as Ex. CW2/C. A sum of Rs. 30,000/- in the form of an FDR had been ordered to be deposited by the Court of learned MM, Ms. Monika Saroha at the time of releasing of the petitioner no. 1 on bail which has been so deposited in terms of the settlement arrived at between me and the petitioner no. 1 is to be released to me after quashing of this FIR.

I have studied till Standard 12th and I run a beauty parlour.

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

RO & AC
APRIL 25, 2018/NC

ANU MALHOTRA, J