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

+ **CRL.M.C. 2242/2018 & CRL.M.A. 7976/2018**

RAJ PRAKASH Petitioner

Through: Mr. Satish Kumar, Advocate.

versus

STATE & ANR Respondents

Through: Mr. Sanjeev Sabharwal, APP for State
with ASI Devender Kumar, PS Uttam
Nagar.

R-2 in person with Mr. Sunil Kr.
Ojha, Adv for R-2.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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01.05.2018

Mr. Sunil, 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 petitioner seeks quashing of the FIR No. 697/13, PS Uttam Nagar, 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 claims between them have been settled and all the disputes between them have been amicable resolved.

The Investigating Officer of the case is present and has identified the petitioner Raj Prakash as being the accused arrayed in

the FIR No. 697/13, PS Uttam Nagar, under Sections 498-A/406/34 of the Indian Penal Code, 1860. He has further submitted that the mother, father and brother of the petitioner were also named as accused in the FIR, however, only petitioner was arrayed in Column no. 11 of the charge sheet and the mother, father and brother of the petitioner were put in Column no. 12 and no cognizance has been taken against them under Column no. 12 of the FIR. To similar effect is the submission vide para 10 of the petition to the effect that vide order dated 29.03.2016 of the learned MM concerned, cognizance was taken only against the petitioner qua the alleged commission of offence punishable under Section 498-A/406/34 of the Indian Penal Code, 1860. He has also identified the respondent no.2, Smt. Anuradha Jyoti present today in Court as being the complainant of the said FIR. The proofs of identity of the petitioner 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 and Ex. CW1/B, originals of which have been seen and returned.

The respondent no. 2 in her examination on oath has affirmed having sworn her affidavit Ex. CW2/A annexed to the petition voluntarily and states that she has arrived at a settlement with the petitioner voluntarily of her own accord. She has testified having signed the MOU dated dated 26.02.2015 executed between her and the petitioner, 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. She has further stated that there is no child

born out of the wedlock between her and the petitioner. She has further testified to the effect that the marriage between her and the petitioner has since been dissolved by a decree of divorce through mutual consent under Section 13(B)(2) in HMA no. 826/15 dated 05.10.2015 vide a decree of the Court of Judge-North West, Family court, Rohini Courts Delhi, copy of which is on the record as Ex.CW2/D. She has further testified to the effect that in terms of the settlement arrived at between her and the petitioner, a total a sum of Rs. 7,50,000/- was to be paid to her by the petitioners, out of which a sum of Rs. 5,00,000/- has already been received by her previously and a balance sum of Rs. 2,50,000/- has been handed over to her by the petitioner today in the Court vide a demand draft bearing no. 083479 dated 07.04.2018 drawn on the HDFC Bank in her favour, photocopy of which is on the record as Ex.CW2/C and she further states that there are now no claims of hers left against the petitioner. She has further submitted that she has done her M.B.A. and as it appears that she is well educated enough to understand the implications of her statement, there appears no reason to disbelieve the statement made by her that she has arrived at a settlement with the petitioner voluntarily of her own accord.

On behalf of the State, there is no opposition to the prayer made by the petitioner seeking quashing of the FIR in question in view of the settlement arrived at between the parties.

Taking into account the statement made by the respondent no.2,

non-opposition on behalf of the State for the maintenance of peace and harmony between the parties, 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....”

(emphasissupplied)

In view thereof, the FIR No. 697/13, PS Uttam Nagar, under Sections 498-A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom are thus quashed.

The petition is disposed of.

ANU MALHOTRA, J

MAY 01, 2018

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CRL.M.C. 2242/2018

RAJ PRAKASH

Vs. STATE & ANR

Statement of CW1 : ASI DEVENDER KUMAR, PS UTTAM NAGAR, DELHI.

ON S.A.

I identify the petitioner Raj Prakash as being the accused arrayed in the FIR No. 697/13, PS Uttam Nagar, under Sections 498-A/406/34 of the Indian Penal Code, 1860. The mother, father and brother of the petitioner were also named as accused in the FIR, however, only the petitioner was arrayed in Column no. 11 of the charge sheet and the mother, father and brother of the petitioner were put in Column no. 12 and no cognizance has been taken against them under Column no. 12 of the FIR.

I also identify the respondent no.2, Smt. Anuradha Jyoti present today in Court as being the complainant of the said FIR. The proofs of identity of the petitioner 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 and Ex. CW1/B respectively. (Originals seen and returned.)

ANU MALHOTRA, J

RO & AC

MAY 01, 2018

Statement of CW2 : Smt. Anuradha Jyoti, d/o Sh. Dharm Nath Prasad, aged 35 years, r/o H. NO. 2A, Pocket-2, Mayur Vihar, Phase-III, Delhi. ON S.A.

My affidavit annexed to the petition bears my signatures thereon at point A & B on Ex. CW2/A. The MOU dated 26.02.2015 executed between me and the petitioner bears my signatures as visible 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 petitioner Raj Prakash seeking quashing of the FIR No. 697/13, PS Uttam Nagar, under Sections 498-A/406/34 of the Indian Penal Code, 1860 nor do I want the petitioner to be punished in relation thereto in view of the settlement arrived at between me and the petitioner, likewise I do not seek the continuation of the proceedings against Mr. Akhori Sachidanand, Smt. Mukta Sinha and Gyan Prakash Sinha nor do I want them to be punished in relation to any alleged commission of offence.

In view of the settlement arrived at between me and the petitioner, a sum of Rs. 7,50,000/- was to be paid to me by the petitioners, out of which a sum of Rs. 5,00,000/- has already been received by me previously and a balance sum of Rs. 2,50,000/- has been handed over to me by the petitioner today in the Court vide a demand draft bearing no. 083479 dated 07.04.2018 drawn on the HDFC Bank in my favour, photocopy of which is on the record as Ex.CW2/C. There are now no claims of mine left against the

petitioner. There is no child born out of the wedlock between me and the petitioner.

The marriage between me and the petitioner has since been dissolved by a decree of divorce through mutual consent under Section 13(B)(2) in HMA no. 826/15 dated 05.10.2015 vide a decree of the Court of Judge-North West, Family court, Rohini Courts Delhi, copy of which is on the record as Ex.CW2/D.

I have done my M.B.A.

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**