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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 2325/2018**
HARI KISHORE SAHA @ SINGH & ORS Petitioners
Through: Mr. Ashok Barnwal, Advocate.

versus

THE STATE (GOVT OF NCT OF DELHI) & ANR ... Respondents
Through: Mr. Kamal Kumar Ghei, APP for
State with SI Shyam, PS Jagat Puri.
R-2 in person with Mr. Sandeep
Gupta, Adv for R-2.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **03.05.2018**

CRL.M.A.8271/18 (Ex.)

Exemption allowed subject to all just exceptions.

The application is disposed of.

CRL.M.C. 2325/2018

Vide the present petition, the petitioners seek quashing of the FIR No. 346/15, PS Jagat Puri under Sections 498-A/406/34 of the Indian Penal Code, 1860 submitting to the effect that a settlement has since been arrived at between the parties and that all disputes between them have been amicably resolved.

The Investigating Officer of the case is present and on the basis of proofs of identity of the petitioner nos. 1 to 3 and of the respondent no. 2 in the form of their original Aadhar Cards (photocopies of

which are on the record as Ex. CW1/A to Ex. CW1/D) has identified them and has testified to the effect that apart from the petitioner nos. 1 to 3 there are no other persons arrayed as accused in the FIR.

The respondent no. 2 in her deposition on oath on examination by the Court has affirmed having sworn her affidavit Ex. CW2/A in support of the averments made in the petition. She has further testified to the effect that she has signed the settlement deed dated 27.01.2018 Ex. CW2/B and states that she has signed both these documents voluntarily of her own accord without any duress, coercion or pressure from any quarter. She has submitted that in view of the settlement arrived at between her and the petitioners, a total sum of Rs. 20,00,000/- was agreed to be paid to her by the petitioners, out of which a sum of Rs. 12,50,000/- has already been received by her previously and a balance sum of Rs. 7,50,000/- has been handed over to her by the petitioners today in the Court vide a banker's cheque bearing no. 777528 dated 18.04.2018 for a sum of Rs. 6,00,000/- drawn on the State Bank of India in her favour and vide a demand draft bearing no. 936390 dated 17.04.2018 for a sum of Rs. 1,50,000/- drawn on the Union Bank of India in her favour, photocopies of which are on the record as Ex. CW2/C & Ex. CW2/D respectively and she states that there are now no claims of hers left against the petitioners. She has further submitted that there are two children born out of the wedlock between her and the petitioner no. 1, who are in her custody and shall remain to continue in her custody. She has further 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 13(B)(2) in HMA no. 485/18 dated 20.03.2018 vide a decree of the Court of the Principal Judge Family Court, North- East, KKD Courts Delhi, copy of which proceedings are on the record as Ex.CW2/E.

The respondent no. 2 further submits that she does not oppose the prayer made by the petitioner no. 1 Hari Kishor Saha @ Singh, petitioner no. 2 Kailashi Devi and petitioner no. 3 Reba Devi seeking quashing of the FIR No. 346/15, PS Jagat Puri under Sections 498-A/406/34 of the Indian Penal Code, 1860 nor does she want the petitioners to be punished in relation thereto in view of the settlement arrived at between her and the petitioners. As the respondent no. 2 is apparently well educated and has done her LLB, it is apparent that she understands the implications of her statement made by her. There appears no reason to disbelieve her statement that she has arrived at a settlement with the petitioners voluntarily of her own accord.

As the FIR emanates from a matrimonial discord which is indicated to have been resolved vide dissolution of the marriage between the petitioner no. 1 and the respondent no. 2 through mutual consent, it is considered appropriate to put a quietus to the litigation between the parties for maintenance of peace and harmony between the parties and for the well being of the children and of the respondent no. 2, 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. 346/15, PS Jagat Puri under Sections 498-A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings against the petitioner no. 1 Hari Kishor

Saha @ Singh, petitioner no. 2 Kailashi Devi and petitioner no. 3 Reba Devi emanating therefrom are thus quashed.

The petition is disposed of.

ANU MALHOTRA, J

MAY 03, 2018/NC

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HARI KISHORE SAHA @ SINGH & ORS.

Vs. STATE & ANR

Statement of CW1 : SI SHYAM, PS JAGAT PURI, DELHI.

ON S.A.

I identify the petitioner no. 1 Hari Kishor Saha @ Singh, petitioner no. 2 Kailashi Devi and petitioner no. 3 Reba Devi as being the three accused arrayed in the FIR No. 346/15, PS Jagat Puri under Sections 498-A/406/34 of the Indian Penal Code, 1860. Apart from the petitioner nos. 1 to 3 there are no other persons arrayed in the said FIR. I also identify the respondent no.2, Smt. Rajkumari present today in Court as being the complainant of the said FIR. I identify the petitioner nos. 1 to 3 and the respondent no. 2 through their proofs of identity which they have produced in the form of their original Aadhar Cards, photocopies of which are on the record as Ex. CW1/A to Ex. CW1/D respectively. (Originals seen and returned.)

ANU MALHOTRA, J

RO & AC

MAY 03, 2018

**Statement of CW2 : Smt. Rajkumari, d/o Sh. Anandi Saha, age 43 years, r/o B-27, Golden Park, Shiv Puri, Delhi.
ON S.A.**

I do not oppose the prayer made by the petitioner no. 1 Hari Kishor Saha @ Singh, petitioner no. 2 Kailashi Devi and petitioner no. 3 Reba Devi seeking quashing of the FIR No. 346/15, PS Jagat Puri 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 settlement deed dated 27.01.2018 also 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.

In view of the settlement arrived at between me and the petitioners, a total sum of Rs. 20,00,000/- was to be paid to me by the petitioners, out of which a sum of Rs. 12,50,000/- has already been received by me previously and a balance sum of Rs. 7,50,000/- has been handed over to me by the petitioners today in the Court vide a banker's cheque bearing no. 777528 dated 18.04.2018 for a sum of Rs. 6,00,000/- drawn on the State Bank of India in my favour and vide a demand draft bearing no. 936390 dated 17.04.2018 for a sum of Rs. 1,50,000/- drawn on the Union Bank of India in my favour, photocopies of which are on the record as Ex.CW2/C & Ex.

CW2/D respectively. There are now no claims of mine left against the petitioner. There are two children born out of the wedlock between me and the petitioner no. 1 are in my custody and shall remain to continue in my custody.

The marriage between me and the petitioner no. 1 has since been dissolved by a decree of divorce through mutual consent under Section 13(B)(2) in HMA no. 485/18 dated 20.03.2018 vide a decree of the Court of the Principal Judge Family Court, North- East, KKD Courts Delhi, copy of which proceedings are on the record as Ex.CW2/E.

I am a law graduate. I have done LLB.

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 03, 2018**