

\$~50

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 2311/2018 & CRL.M.A. 8210/2018
AMIT ARORA & ORS Petitioner

Through:

versus

STATE (NCT OF DELHI) & ANR Respondent
Through: Mr. Ashish Dutta, APP for State with
SI M.L. Meena , PS Pulprahladpur.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

02.05.2018

%

Vide the present petition, the petitioner seeks quashing of FIR No.251/2015, registered at PS Pulprahladpur, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom submitting to the effect that a settlement has been arrived at the petitioners and the respondent no.2 and all disputes between them have been amicably dissolved.

The Investigating Officer of the case present today in Court has identified the petitioner no.1 Shri Amit Arora, s/o Shri J.L. Arora, petitioner no.2 Shri J.L. Arora, s/o Shri M.L. Arora, petitioner no.3 Smt. Prem Arora, w/o Shri J.L. Arora and the petitioner no.4 Smt. Ishita Arora as being the accused arrayed in FIR No.251/2015, registered at PS Pulprahladpur, under Sections 498A/406/34 Indian Penal Code, 1860 and has also identified the respondent no.2 Ms. Pooja present today in Court as being the complainant

thereof. He has further stated that only the petitioner nos. 1 to 3 have been charge-sheeted. The petitioner no.4 has not been charge-sheeted. 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.)

The respondent no.2 in her deposition on examination on oath by the Court has testified to the effect that in view of the settlement arrived at between her and the petitioners and the dissolution of the marriage between her and the petitioner no.1 has been dissolved vide decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 31.01.2018 of the Court of the Judge, Family Court, South-East, Saket Courts, New Delhi in HMA No.294/2018, the certified copy of the decree sheet in relation thereto is on the record as Ex. CW2/A, there is no child born of the wedlock between her and the petitioner no.1, she does not oppose the prayer made by the petitioner seeking quashing of the FIR in question nor does she want the petitioners to be punished in relation thereto. She has also stated that there are no claims of hers left against the petitioners now. She has further stated that she has done Bachelors in Electronics and she works in an IT company.

Learned APP for the State submits that in view of the settlement arrived at between the parties, there is no opposition to the prayer made by the petitioner seeking quashing of the FIR in question.

In view of the deposition of the respondent no.2, there appears no reason to disbelieve her statement that she has arrived at a settlement with the petitioners voluntarily of her own accord without any duress, coercion or

pressure from any quarter and taking into account the factum that the FIR in question has apparently been registered on the basis of a matrimonial discord between the petitioner no.1 and the respondent no.2, which discord has since been dissolved vide dissolution of marriage between the petitioner no.1 and the respondent no.2 vide a decree of divorce placed on record dated 31.01.2018 in HMA No.294/2018 Ex. CW2/A, it is considered appropriate for maintenance of peace and harmony between the parties, to put a quietus to the litigation between them 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)

In view thereof the FIR No.251/2015, registered at PS Pulprahladpur, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners are quashed.

ANU MALHOTRA, J

MAY 02, 2018

vm

50

CRL.M.C. 2311/2018

AMIT ARORA & ORS

Vs. STATE (NCT OF DELHI) & ANR

Statement of CW1 : SI M.L. Meena , PS Pulprahladpur, Delhi.

ON S.A.

I identify the petitioner no.1 Shri Amit Arora, s/o Shri J.L. Arora, petitioner no.2 Shri J.L. Arora, s/o Shri M.L. Arora, petitioner no.3 Smt. Prem Arora, w/o Shri J.L. Arora and the petitioner no.4 Smt. Ishita Arora as being the accused arrayed in FIR No.251/2015, registered at PS Pulprahladpur, under Sections 498A/406/34 Indian Penal Code, 1860. However, only the petitioner nos. 1 to 3 have been charge-sheeted. The petitioner no.4 has not been charge-sheeted. I also identify the respondent no.2 Ms. Pooja present today in Court 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 seen and returned.)

There are no other persons arrayed as accused in the said FIR.

ANU MALHOTRA, J

RO & AC

MAY 02, 2018

50

CRL.M.C. 2311/2018

AMIT ARORA & ORS

Vs. STATE (NCT OF DELHI) & ANR

Statement of CW2 : Ms. Pooja, d/o Shri Tanoj Barua, aged 31 years, r/o 583, DDA Flats, Purprahladpur, New Delhi.

ON S.A.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.251/2015, registered at PS Pulprahladpur, under Sections 498A/406/34 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.

The marriage between me and the petitioner no.1 has been dissolved vide decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 31.01.2018 of the Court of the Judge, Family Court, South-East, Saket Courts, New Delhi in HMA No.294/2018, the certified copy of the decree sheet in relation thereto is on the record as Ex. CW2/A. There is no child born of the wedlock between me and the petitioner no.1 and there are no claims of mine left against the petitioners now.

I have done Bachelors in Electronics and I work in an IT company.

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 02, 2018