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

+ **CRL.M.C. 2398/2018**

RAM KISHORE & ORS

..... Petitioner

Through: M. Ashok K. Sagar & Mr. Vaibhav
Kumar, Advocates.

versus

STATE (NCT OF DELHI) & ANR

..... Respondents

Through: Mr. Kewal Singh Ahuja, APP for
State with W/SI Veena, PS Vivek
Vihar.

R-2 in person with Mr. N.D. Pathak,
Advocate.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **07.05.2018**

Vide the present petition, the petitioners seek quashing of the FIR No. 315/16, PS Vivek Vihar, under Sections 498-A/406/494/506/34 of the Indian Penal Code, 1860 submitting to the effect that a settlement has been arrived at between the parties and the disputes between them have been amicably resolved and no useful purpose will be served by continuation of the proceedings in relation to the FIR in question.

The Investigating Officer of the case is present and has identified the petitioner No. 1 Sh. Ram Kishore, petitioner no. 2 Sh. Asa Ram, petitioner no. 3 Smt. Lado Devi, petitioner no. 4 Sh. Karan, petitioner no. 5 Ms. Sushila and petitioner no. 6 Ms. Preeti as being

six of the accused arrayed in the FIR No. 315/16, PS Vivek Vihar, under Sections 498-A/406/494/506/34 of the Indian Penal Code, 1860 who were charge sheeted and has also stated that the other persons, i.e., Saroj, Madan Lal, Suresh, Kishan Pal, Sunita & Sushil were also named as accused in the FIR but they were not charge sheeted and were put in Column no. 12. The respondent no.2, Ms. Hema Raj Arya present today in Court has been identified by the Investigating Officer as being the complainant of the said 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 and has also testified to having signed the settlement document dated 21.03.2018 arrived at the Delhi Mediation Centre, Shahdara, KKD Courts, Delhi between her and the petitioners and the copy of the said document is on the record as Ex. CW2/B and she states that she has signed both these documents voluntarily of her own accord without any duress, coercion or pressure from any quarter. She has further testified to the effect that she does not oppose the prayer made by the petitioner No. 1 Sh. Ram Kishore, petitioner no. 2 Sh. Asa Ram, petitioner no. 3 Smt. Lado Devi, petitioner no. 4 Sh. Karan, petitioner no. 5 Ms. Sushila and petitioner no. 6 Ms. Preeti seeking quashing of the FIR No. 315/16, PS Vivek Vihar, under Sections 498-A/406/494/506/34 of the Indian Penal Code, 1860 nor does she want the petitioner nos. 1 to 6 or other persons named in the FIR, i.e., Saroj, Madan Lal, Suresh, Kishan Pal, Sunita & Sushil to be punished in relation to any of the

alleged commission of offences in view of the settlement arrived at between her and the petitioners. She has further submitted that in view of the settlement arrived at between her and the petitioners, a sum of Rs. 1,00,000/- was agreed to be paid to her by the petitioners, out of which a sum of Rs. 70,000/- has already been received by her previously and a balance sum of Rs. 30,000/- has been handed over to her by the petitioners today in the Court vide a demand draft bearing no. 50207 dated 03.05.2018 drawn on the ICICI Bank in her favour, photocopy of the same be placed on the record and she states that there are now no claims of hers left against the petitioners and also states that there is no child born out of the wedlock between her and the petitioner no.1. The respondent no. 2 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. 439/18 on 26.04.2018 vide a decree of the Court of the Principal Judge, Family Court, Shahdara, KKD Courts, Delhi, copy of which is on the record as Ex.CW2/C. She has stated that she does not oppose the prayer made by the petitioner No. 1 Sh. Ram Kishore, petitioner no. 2 Sh. Asa Ram, petitioner no. 3 Smt. Lado Devi, petitioner no. 4 Sh. Karan, petitioner no. 5 Ms. Sushila and petitioner no. 6 Ms. Preeti seeking quashing of the FIR in question nor does she seek any action against the other persons named in the FIR, i.e., Saroj, Madan Lal, Suresh, Kishan Pal, Sunita & Sushil in view of the settlement arrived at between her and the petitioners.

The respondent no. 2 is fairly well educated and apparently understands the implications of the statement made by her. Taking into account the totality of the circumstances of the case, it is considered appropriate to put a quietus to the litigation between the parties 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)

In view thereof, the FIR No. 315/16, PS Vivek Vihar, under Sections 498-A/406/494/506/34 of the Indian Penal Code, 1860 against the petitioner No. 1 Sh. Ram Kishore, petitioner no. 2 Sh. Asa Ram, petitioner no. 3 Smt. Lado Devi, petitioner no. 4 Sh. Karan, petitioner no. 5 Ms. Sushila and petitioner no. 6 Ms. Preeti and against the other persons named in the FIR, i.e., Saroj, Madan Lal, Suresh, Kishan Pal, Sunita & Sushil and all consequential proceedings emanating therefrom are thus quashed.

The petition is disposed of.

ANU MALHOTRA, J

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Statement of CW1 : W/SI VEENA, PS VIVEK VIHAR, DELHI.

ON S.A.

I identify the petitioner No. 1 Sh. Ram Kishore, petitioner no. 2 Sh. Asa Ram, petitioner no. 3 Smt. Lado Devi, petitioner no. 4 Sh. Karan, petitioner no. 5 Ms. Sushila and petitioner no. 6 Ms. Preeti as being six of the accused arrayed in the FIR No. 315/16, PS Vivek Vihar, under Sections 498-A/406/494/506/34 of the Indian Penal Code, 1860. The other persons, i.e., Saroj, Madan Lal, Suresh, Kishan Pal, Sunita & Sushil were also named as accused in the FIR and they were not charge sheeted and were put in Column no. 12. The petitioner no. 1 has produced his original Aadhar Card and the petitioner no. 4 has produced his original passport, photocopies of the same be placed on the record. I also identify the respondent no.2, Ms. Hema Raj Arya present today in Court as being the complainant of the said FIR.

The proofs of identity of the petitioner nos. 2, 3, 5 & 6 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 to Ex. CW1/E respectively. (Originals seen and returned.)

ANU MALHOTRA, J

**RO & AC
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**Statement of CW2 : Ms. Hema Raj Arya, d/o Late Sh. Mam Chand, aged 43 years, r/o H. NO. 3, Circular Road, Shahdara, Delhi.
ON S.A.**

My affidavit annexed to the petition bears my signatures thereon at point A & B on Ex. CW2/A. The settlement dated 21.03.2018 arrived at Delhi Mediation Centre, Shahdara, KKD Courts, Delhi between me and the petitioners, certified copy of which has been produced indicates my signatures thereon and the copy of the said document is on the record as 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 No. 1 Sh. Ram Kishore, petitioner no. 2 Sh. Asa Ram, petitioner no. 3 Smt. Lado Devi, petitioner no. 4 Sh. Karan, petitioner no. 5 Ms. Sushila and petitioner no. 6 Ms. Preeti seeking quashing of the FIR No. 315/16, PS Vivek Vihar, under Sections 498-A/406/494/506/34 of the Indian Penal Code, 1860 nor do I want the petitioner nos. 1 to 6 or other persons named in the FIR, i.e., Saroj, Madan Lal, Suresh, Kishan Pal, Sunita & Sushil to be punished in relation to any alleged commission of offence in view of the settlement arrived at between me and the petitioners.

In view of the settlement arrived at between me and the petitioner, a sum of Rs. 1,00,000/- was agreed to be paid to me by the petitioners, out of which a sum of Rs. 70,000/- has already been received by me previously and a balance sum of Rs. 30,000/- has been handed over to me by the petitioners

today in the Court vide a demand draft bearing no. 50207 dated 03.05.2018 drawn on the ICICI Bank in my favour, photocopy of the same be placed on the record. There are now no claims of mine left against the petitioners. There is no child born out of the wedlock between me and the petitioner no.1.

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. 439/18 on 26.04.2018 vide a decree of the Court of the Principal Judge, Family Court, Shahdara, KKD Courts, Delhi, copy of which is on the record as Ex.CW2/C.

I have done my B.Com and work as an accountant in Hong Kong.

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 07, 2018**