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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 2385/2018 & CRL.M.A. 8496/2018
CHETAN @ LOKMANI & ANR Petitioner
Through: Mr. Jitender Singh, Adv.

versus

STATE (GOVT OF NCT OF DELHI) & ANR Respondent
Through: Mr. Kamal Kumar Ghei, APP for
State with SI Ompal Singh, PS
Khajuri Khas.
R-2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

07.05.2018

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Vide the present petition, the petitioners seek quashing of FIR No.309/2012, registered at PS Khajuri Khas, under Sections 498A/406/34 Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act, 1961 and all consequential proceedings emanating therefrom submitting to the effect that a settlement has been arrived at between the parties and after initial separation between the petitioner no.1 and the respondent no.2 in 2011, which as per the averments made in the petition is w.e.f. 09.07.2011, the parties have since been residing together w.e.f. 02.09.2012 and there are no problems now.

The substitute Investigating Officer of the case present today in Court has identified the petitioner no.1 Shri Chetan, s/o Shri Lekhraj, petitioner no.2 Shri Lekhraj, s/o Shri Sagva as being the accused arrayed in

FIR No.309/2012, registered at PS Khajuri Khas, under Sections 498A/406/34 Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act, 1961 and has also identified the respondent no.2 Ms. Mithlesh present today in Court as being the complainant thereof. It has been submitted on behalf of the State that the co-accused Neeraj named in the FIR was not charge-sheeted and was put in column no.12 and no cognizance has been taken against the said accused. The proofs of identity of the petitioner nos. 1 to 2 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/C respectively, originals of which have been seen and returned.

The respondent no.2 in her examination on oath by the Court has testified to having sworn her affidavit annexed to the petition as Ex.CW2/A and has further testified to the effect that she has no problems now with the petitioner nos. 1 & 2 nor with Shri Neeraj and that she is living with her two children with the petitioner no.1 since the year 2012 and that she does not oppose the prayer made by the petitioner seeking quashing of the FIR in question and does not want the petitioners to be punished in relation thereto. The respondent no.2 has further testified to the effect that she has studied upto standard 10th and has made her statement voluntarily of her own accord without any duress, pressure or coercion from any quarter.

Learned APP for the State submits that in the circumstances of the case, 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 the categorical submissions to the effect that she is living together with the petitioner no.1 w.e.f. 02.09.2012 with her two minor children, it is considered appropriate to put a quietus to the litigation between the parties for maintenance of peace and harmony 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 FIR No.309/2012, registered at PS Khajuri Khas, under Sections 498A/406/34 Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act, 1961 and all the consequential proceedings emanating therefrom against the petitioner nos.1 & 2 and Mr. Neeraj, brother-in-law of the respondent no.2 are quashed.

ANU MALHOTRA, J

MAY 07, 2018

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