

\$~46

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 2418/2018 and Crl. M.A. No.8643/2018**

SUDHIR SHANDILYA & ORS Petitioners
Through: Mr.Akhtar Shamim, Advocate with
petitioners in person.

versus

THE STATE (GOVT OF NCT OF DELHI) & ANR Respondents
Through: Mr. Panna Lal Sharma, APP for State
with SI Bharat Kumar, PS Farsh
Bazar
Ms.Suman Tanwar, Adv for R-2 with
R-2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **08.05.2018**
Crl.M.A. No.8643/2018 (Exemption)

Exemption allowed, subject to just exceptions.

The application is disposed of.

CRL.M.C. 2418/2018

Vide the present petition, the petitioners No. 1 to 6, *namely*, No.1 to 6, *namely*, Sudhir Shandilya, Devendra Praskash, Smt. Sunita Sharma, Miss Sapna @ Ritu Vats, Savita Sharma and Abhishek Sharma @ Abhishek Pandit, seek quashing of FIR No.240/2014, under Sections 498A/406/34 Indian Penal Code, 1860, and Section 4 of the Dowry Prohibition Act, Police Station Farsh Bazar submitting

Crl.M.CNo.2418/2018

Page 1 of 7

inter alia to the effect that a settlement has been arrived at between the petitioners and the respondent No.2 vide a settlement dated 8.9.2016 at the Mediation Centre, Karkardooma Courts, Delhi.

The petitioner No.2 Devendra Prakash, who is aged about 85 years, is stated to be unable to appear in Court. The absence of the petitioner No.2 for the day is condoned and his presence is exempted through counsel present on his behalf.

The Investigating Officer of the case is present and has identified the petitioners No.1, 3 to 6 *namely*, Sudhir Shandilya, Smt. Sunita Sharma, Miss Sapna @ Ritu Vats, Savita Sharma, Abhishek Sharma @ Abhishek Pandit (Present in the Court) as being the accused and the respondent No.2 Radha, as being the complainant of the FIR No.240/2014, under Sections 498A/406/34 Indian Penal Code, 1860, and Section 4 of the Dowry Prohibition Act, Police Station Farsh Bazar and the respondent No.2 present in the Court today. Proofs of identity have been produced by the petitioners and the respondent No.2. The photocopies of the same are Ex.CW-1/B to Ex.CW-1/G. *Inter alia*, the Investigating Officer has identified the photograph of the petitioner No.2 Devendra Prakash, who is not present as Ex.CW-1/A on the record.

He has further testified to the effect that apart from the Petitioners No.1 to 6 there is one Juvenile Master 'X' against whom the proceedings were initiated at the Juvenile Justice Board (the proceedings against the juvenile have since been completed).

The respondent No.2 on her examination on oath by the Court

has affirmed having sworn her affidavit (EX.CW-2/A) annexed to the petition. On her examination by the Court the respondent No.2 has also testified to the effect that all disputes between her and the petitioners have been resolved in view of the settlement arrived at between her and the petitioners No.1 to 6 on 8.9.2016 at the Mediation Centre, Karkardooma Court, Delhi, pursuant to which all proceedings between the parties have been closed. She has further stated that pursuant to the settlement dated 8.9.2016 a total sum of Rs.6,00,000/- was to be paid to the respondent No.2 by the petitioners of which a sum of Rs.5,00,000/- is stated to have already been paid by the petitioners to the respondent No.2 and the balance sum of Rs.1,00,000/- has been handed over to the respondent No.2 today by the petitioners vide a demand draft bearing No.051961 dated 14.03.2018 drawn on Punjab National Bank in her favour as Radha Sharma D/o Surender Pal Sharma. The photocopy of the same is directed to be placed on record. She has further testified to the effect that now there are no claims of her left against the petitioners. She has further testified to the effect that the marriage between her and the petitioner No.1 has since been dissolved vide a decree of divorce through mutual consent dated 6.11.2017 in HMA No.883/17 under Section 13(B) (2) of the Hindu Marriage Act, 1955 of the Principal Judge, Family Courts, Shahdara, Karkardooma Courts, Delhi, the true copy of which is on the record as EX.CW-2/B. She has further testified to the effect that there is no child of the wedlock between her and the petitioner No.1.

The respondent No.2 has further stated that she does not oppose the prayer made by the petitioners seeking quashing of the FIR No.240/2014, under Sections 498A/406/34 Indian Penal Code, 1860, and Section 4 of the Dowry Prohibition Act, Police Station Farsh Bazar, nor does she want the petitioners to be punished as all disputes between her and the petitioners have already been settled.

Learned APP for the State also, in the facts and circumstances, does not oppose the prayer made by the petitioners seeking quashing of the FIR No.240/2014, under Sections 498A/406/34 Indian Penal Code, 1860, and Section 4 of the Dowry Prohibition Act, Police Station Farsh Bazar.

In view of the statement made by the respondent No.2 and the record, there appears no reason to disbelieve the statement made by the respondent No.2 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 that she does not seek the continuance of the FIR against the petitioners as apparently the FIR is indicated to have been registered due to a matrimonial discord which has since been resolved vide a decree of divorce through mutual consent dated 6.11.2017 in HMA No.883/17 under Section 13(B) (2) of the Hindu Marriage Act, 1955 of the Principal Judge, Family Courts, Shahdara, Karkardooma Courts, Delhi, 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

Crl.M.CNo.2418/2018 *Page 4 of 7*

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 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),

it is considered appropriate in the interest of justice to put a quietus to

the litigation between the parties so that peace and harmony between them is restored, in view thereof the FIR No.240/2014, under Sections 498A/406/34 Indian Penal Code, 1860, and Section 4 of the Dowry Prohibition Act, Police Station Farsh Bazar and all consequential proceedings emanating therefrom are thus quashed against the petitioners No. 1 to 6, *namely*, No.1 to 6, *namely*, Sudhir Shandilya, Devendra Praskash, Smt. Sunita Sharma, Miss Sapna @ Ritu Vats, Savita Sharma and Abhishek Sharma @ Abhishek Pandit.

The petition is disposed of.

ANU MALHOTRA, J

MAY 08, 2018/SV

IN THE HIGH COURT OF DELHI: NEW DELHI

Item No. 46

Crl. M.C. 2418/2018

SUDHIR SHANDILYA & ORS. V. STATE AND ANR.

08.05.2018

**CW-1 SI BHARAT KUMAR POLIE STATION FARSH BAZAR
ON S.A.**

I identify the petitioners No.1 to 6, *namely*, Sudhir Shandilya, Devendra Praskash, Smt. Sunita Sharma, Miss Sapna @ Ritu Vats, Savita Sharma, Abhishek Sharma @ Abhishek Pandit (Present in the Court) and the photograph of the petitioner No.2, *namely*, Devender Prakash Sharma (not present in the Court) and another Juvenile Master 'X' against whom the proceedings were initiated at the Juvenile Justice Board (the proceedings against the juvenile have since been completed) as being the accused and the respondent No.2 Radha, as being the complainant of the FIR No.240/2014, under Sections 498A/406/34 Indian Penal Code, 1860, and Section 4 of the Dowry Prohibition Act, Police Station Farsh Bazar present in the Court today.

I identify the photograph of the petitioner No.2 placed on record at page 96 as Ex.CW-1/A.

I identify the petitioners No.1, 3 to 6, *namely*, Sudhir Shandilya, Smt. Sunita Sharma, Miss Sapna @ Rinu Vats, Savita Sharma, Abhishek Sharma @ Abhishek Pandit (Present in the Court) and the photograph of the petitioner No.2, *namely*, Devender Prakash Sharma (not present in the Court) as being the accused and the respondent No.2 Radha, as being the complainant of the FIR No.240/2014, under Sections 498A/406/34 Indian Penal Code, 1860, and Section 4 of the Dowry Prohibition Act, Police

Station Farsh Bazar present in the Court today. The original Aadhaar Cards of the petitioner No.1, Petitioner No.3, Petitioner No.4 , Petitioner No.5 and Petitioner No.6 and of the respondent No.2 have been produced. The photocopy of the Aadhar Cards of the petitioners No.1, 3 to 6 being Ex.CW-1/B, Ex.CW-1/C, Ex.CW-1/D, Ex.CW-1/E and being Ex.CW1/F and of the respondent No.2 being Ex.CW-1/G respectively (Original seen & returned.).

RO & AC
08.05.2018

ANU MALHOTRA, J

IN THE HIGH COURT OF DELHI: NEW DELHI

Item No. 46

CrI. M.C. 2418/2018

SUDHIR SHANDILYA & ORS. V. STATE AND ANR.

08.05.2018

**CW-2 RADHA SHARMA D/O SURENDER PAL SHARMA, AGED
30 YEARS R/O 360/3A, BHOLA NATH NAGAR, MANI RAM ROAD,
SHAHADARA, DELHI
ON S.A.**

I have studied till standard 12th.

My affidavit dated 27.3.2018 in support of the averments in the petition bears my signatures at points A and B on EX.CW-2/A which I have signed voluntarily of my own accord without any duress, pressure or coercion from any quarter.

A settlement has been arrived at between me and the petitioners No.1 to 6 on 8.9.2016 at the Mediation Centre, Karkardooma Court, Delhi.

Pursuant to the settlement arrived at between me and the petitioners I have received a total sum of Rs.6 lacs was to be paid to me by the petitioners of which a sum of Rs.5 lac has been received by me previously and the balance sum of Rs.1 lakh has been handed over to me today vide a demand draft bearing No.051961 dated 14.03.2018 drawn on Punjab National Bank in my favour as Radha Sharma D/o Surender Pal Sharma. The photocopy of the same is directed to be placed on record. There are now no claims of mine left against the petitioners. The marriage between me and the petitioner No.1 has since been dissolved vide a decree of divorce through mutual consent dated 6.11.2017 in HMA No.883/17 under Section 13(B) (2) of the Hindu Marriage Act, 1955 of the Principal Judge, Family Courts,

Shahdara, Karkardooma Courts, Delhi.. The true copy of which is on the record as EX.CW-2/B. There is no child of the Wedlock between me and the petitioner No.1.

In view of the settlement arrived at between me and the petitioners, I do not seek any further action against the petitioners No.1 to 6 *namely*, Sudhir Shandilya, Devendra Praskash (not present in the Court), Smt. Sunita Sharma, Miss Sapna @ Ritu Vats, Savita Sharma, Abhishek Sharma @ Abhishek Pandit and another Juvenile Master 'X' and I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.240/2014, under Sections 498A/406/34 Indian Penal Code, 1860, and Section 4 of the Dowry Prohibition Act, Police Station Farsh Bazar and all consequential proceedings emanating therefrom. In view of the settlement arrived at between me and the petitioners No.1 to 6, I do not seek that the petitioners be punished in relation to the said FIR No.240/2014, under Sections 498A/406/34 Indian Penal Code, 1860, and Section 4 of the Dowry Prohibition Act, Police Station Farsh Bazar. I have stated so voluntarily of my own accord without any duress, pressure or coercion from any quarter. I have made my statement voluntarily of my own accord without any duress, pressure or coercion from any quarter.

RO & AC
08.05.2018

ANU MALHOTRA, J