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

+ CRL.M.C. 2444/2018

NARENDER PAL & ANR.

..... Petitioners

Through

Mr.Kameshwar Pratap Singh and
Sh.Jagjit Singh, Advs.

versus

STATE & ANR.

..... Respondents

Through

Mr. Kewal Singh Ahuja, APP for the
State with SI Narendra Kumar PS R
K Puram.

Mr. Purushendra Bhardwaj, Adv for
R-2.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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09.05.2018

Learned counsel present for the respondent no. 2 submits that the Mr. Ram Kumar, Advocate has already filed his vakalatnama on behalf of the respondent no. 2, which is on the record.

Vide the present petition, the petitioners seek quashing of the FIR No. 196/15, PS R.K. Puram, under Sections 498-A/406/34 of the Indian Penal Code, 1860 submitting to the effect that a settlement has been arrived at between the parties and all the disputes between them have been amicably resolved.

The Investigating Officer of the case is present and has identified the petitioner no. 1 Sh. Narender Pal and petitioner no. 2 Smt. Omwati as being two of the accused who were facing trial in relation to the FIR No. 196/15, PS R.K. Puram and has stated that the two other accused persons namely Ravi Kumar and Kapil Kumar

have already been discharged by the court of the learned MM, Patiala House Courts, New Delhi. The Investigating Officer has identified the petitioner nos. 1 & 2 and also the respondent no. 2 as being the complainant of the FIR in question. The proofs of identify of the petitioner nos. 1 & 2 and of the respondent no. 2 in the form of the photocopies of the documents produced by them are on the record as Ex. CW1/A to Ex. CW1/C, originals of which have been seen and returned.

The respondent no. 2 in her deposition on examination by this Court has affirmed having sworn her affidavit Ex.CW2/B in support of the averments made in the petition and has also testified to having signed the counselling cell agreement arrived at Family Court, Saket Court Complex, copy of which is on the record as Ex.CW2/A and she has stated that she has signed both these documents voluntarily of her own accord without any duress, coercion or pressure from any quarter. She has testified to the effect that in terms of the settlement arrived at between her and the petitioners, a total sum of Rs. 5.25 lakhs was agreed to be paid to her by the petitioners, out of which a sum of Rs. 4 lakhs has been paid to her previously and a balance sum of Rs. 1.25 lakhs has been handed over to her today during the course of the proceedings by the petitioners through a demand draft bearing no. 509616 dated 06.04.2018 drawn on the State Bank of India in her favour, photocopy of which is on the record as Ex. CW1/C and she has stated that there are now no claims of hers left against the petitioners and that there is no child born out of the wedlock between

her and the petitioner no.1. She has further testified to the effect that she has studied till Standard 12th. *Inter alia* she has stated that the marriage between her and the petitioner no. 1 has been dissolved by a decree of divorce through mutual consent on 08.03.2018 in HMA No.346/18 of the court of the Principal Judge, Family Courts Saket, copy of which is on the record as Ex.CW2/D. 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. As all disputes between the petitioners and the respondent no. 2, complainant of the FIR have been settled and there is no opposition also on behalf of the State in the circumstances of the case to the prayer made by the petitioners, it is considered appropriate to put a quietus to the litigation between the parties in relation to the FIR No. 196/15 which apparently emanates from a matrimonial discord between the petitioner no. 1 and the respondent no. 2 which matrimonial discord has apparently been dissolved vide the dissolution of marriage between the marriage between the petitioner no. 1 and the respondent no. 2 vide the decree of divorce, copy of which is on the record as Ex. CW2/D, 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.196/15, PS R.K. Puram, under Sections 498-A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom are thus quashed.

ANU MALHOTRA, J

MAY 09, 2018/NC

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CRL.M.C. 2444/2018
NARENDER PAL & ANR.
Vs. STATE & ANR

**Statement of CW1 : SI NARENDER KUMAR, PS R.K. PURAM,
DELHI.**

ON S.A.

There were four accused persons named in the FIR No. 196/15, PS R.K. Puram, under Sections 498-A/406/34 of the Indian Penal Code, 1860, i.e. the petitioner No. 1 Sh. Narender Pal and petitioner no. 2 Smt. Omwati and two other accused persons namely Ravi Kumar and Kapil Kumar of whom Ravi Kumar and Kapil Kumar have since been discharged by the court of the learned MM, Patiala House Courts, New Delhi.

I identify the petitioner No. 1 Sh. Narender Pal and petitioner no. 2 Smt. Omwati as being the two accused arrayed in the FIR No. 196/15, PS R.K. Puram, under Sections 498-A/406/34 of the Indian Penal Code, 1860. I also identify the respondent no.2, Ms. Kiran present today in Court as being the complainant of the said FIR.

The proofs of identity of the petitioner nos. 1 & 2 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/C respectively. (Originals seen and returned.)

ANU MALHOTRA, J

**RO & AC
MAY 09, 2018**

**Statement of CW2 : Ms. Kiran, d/o Late Sh. N.P. Nimesh, aged 30 years, r/o House no.149-R, Sector-4, Pushp Vihar, Delhi.
ON S.A.**

The copy of the Counselling Cell settlement dated 01.06.2017 arrived at Family Court, Saket Court Complex bears my signatures thereon on each page on Ex. CW2/A. My affidavit annexed to the petition bears my signatures thereon at point A & B on 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. Narender Pal and petitioner no. 2 Smt. Omwati seeking quashing of the FIR No.196/15, PS R.K. Puram, under Sections 498-A/406/34 of the Indian Penal Code, 1860 nor do I want the petitioners to be punished in relation to any alleged commission of offence in view of the settlement arrived at between me and the petitioners. The other two accused persons have already been discharged by the court of the learned MM, Patiala House Courts, New Delhi.

In view of the settlement arrived at Counselling Cell between me and the petitioner no. 1, copy of which is on the record as Ex. CW1/A, a total sum of Rs. 5,25,000/- was agreed to be paid to me by the petitioner no. 1, out of which a sum of Rs. 4,00,000/- has already been received by me previously and a balance sum of Rs. 1,25,000/- has been handed over to me by the petitioner no. 1 today in the Court vide a demand draft bearing no.

509616 dated 06.04.2018 drawn on the State Bank of India in my favour, photocopy of which is on the record as Ex. CW1/C. 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. 346/18 on 08.03.2018 vide a decree of the Court of the Principal Judge, Family Court, South District, Saket Courts Complex and the attested copy of which is on the record as Ex.CW2/D.

I have studied till Standard 12th.

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 09, 2018**