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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 2447/2018 & CRL.M.A. 8726/2018**
KARNAIL SINGH Petitioner
Through: counsel for petitioner.

versus

STATE (NCT OF DELHI) & ANR Respondent
Through: Mr. Kewal Singh Ahuja, APP for
State with ASI Hawa Singh, PS Nihal
Vihar.
R-2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **09.05.2018**

Vide the present petition, the petitioner seeks quashing of FIR No. 142/2013, PS Nihal Vihar, under Sections 498A/406 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom submitting to the effect that all disputes between the petitioner and the respondent no.2 have been amicably resolved and that the petitioner and the respondent no.2 are living together.

The Investigating Officer of the case present today in Court has identified the petitioner Shri Karnail Singh as being the accused arrayed in the FIR No. 142/2013, PS Nihal Vihar, under Sections 498A/406 Indian Penal Code, 1860 and has also identified the respondent no.2 Ms. Harinder Kaur present today in Court as being the complainant thereof. It is stated by the Investigating Officer that as per the FIR no evidence was found against

the sisters-in-law (Nand) of the respondent no.2 and they were not charge-sheeted and the charge-sheet was also filed against the parents-in-law of the respondent no.2. On behalf of the State it has been submitted that the father-in-law and mother-in-law have not been arrayed on record as parties to the present petition. The proofs of identity of the petitioner and of the respondent no. 2 in the form of photocopies of the documents produced by them are on the record as Ex. CW1/A to Ex. CW1/B respectively. (Originals seen and returned.)

In view of the submissions that have been made in the petition, it is considered appropriate to examine the respondent no.2 further in relation to submissions that are sought to be made through the present petition. The respondent no.2 in her examination on oath by the Court has stated that she is living with the petitioner w.e.f. 2013 peacefully and amicably without any problems now. She has further stated that there is a child named Samardeep Singh aged 3½ years born on 03.01.2016 of the wedlock between her and the petitioner and that she does not seek the continuation of the proceedings in relation to the FIR in question against the petitioner, her spouse, nor does she want any action against her parents-in-law and sisters-in-law in view of the amicable settlement arrived at with the petitioner Shri Karnail Singh. The respondent no.2 has further stated that she is a graduate and prior to birth of her child, she used to teach and she has also stated that she had lived with her parents-in-law for a period of eight months and thereafter she went to her parental home and after reconciliation with the petitioner, she is living with the petitioner since the year 2013 separated from her parents-in-law.

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 petitioner, her spouse voluntarily of her own accord without any duress, coercion or pressure from any quarter and she voluntarily does not seek the continuation of the proceedings against the petitioner and there is a child born after reconciliation of the petitioner and the respondent no.2, for the maintenance of peace and harmony between the parties and for well being of the minor child, it is considered appropriate 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. 142/2013, PS Nihal Vihar, under Sections 498A/406 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner are quashed.

ANU MALHOTRA, J

MAY 09, 2018

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CRL.M.C. 2447/2018

KARNAIL SINGH

Vs. STATE (NCT OF DELHI) & ANR.

Statement of CW1 : ASI Hawa Singh, PS Nihal Vihar, Delhi.

ON S.A.

Shri Karnail Singh, Shri Kartar Singh and Shri Gurdev Singh are the three accused as per the FIR No. 142/2013, PS Nihal Vihar, under Sections 498A/406 Indian Penal Code, 1860, only accused Shri Karnail Singh is present and I identify him. I also identify the respondent no.2 Ms.Harminder Kaur present today in Court as being the complainant thereof. As per the FIR no evidence was found against the sisters-in-law (Nand) of the respondent no.2 and they were not charge-sheeted. The proofs of identity of the petitioner and of the respondent no. 2 in the form of photocopies of the documents produced by them are on the record as Ex. CW1/A to Ex. CW1/B respectively. (Originals seen and returned.)

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

ANU MALHOTRA, J

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CRL.M.C. 2447/2018

KARNAIL SINGH

Vs. STATE (NCT OF DELHI) & ANR.

Statement of CW2 : Smt. Harminder Kaur, d/o Shri Sardar Sukhvinder Singh, aged 33 years, r/o RZR-453, Nihal Vihar, New Delhi. The address RZQ-49 D, Nihal Vihar, New Delhi.

ON S.A.

My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/A. The settlement document dated 09.04.2018 bears my signature thereon at point-A on Ex. CW2/B. I have signed both these documents voluntarily of my own accord without any duress, pressure or coercion from any quarter. I do not oppose the prayer made by the petitioner seeking quashing of the FIR No. 142/2013, PS Nihal Vihar, under Sections 498A/406 Indian Penal Code, 1860 inasmuch as I am living with the petitioner since the year 2013 without any problems now. There is a child named Samardeep Singh aged 3½ years born of the wedlock between me and the petitioner. I do not want the petitioner to be punished in relation to the offence punishable under Section 498A/406 Indian Penal Code, 1860. The FIR was lodged by me against my parents-in-law and sisters-in-law as well and I do not seek the continuation of the proceedings in relation to the FIR in question against any of them in view of the settlement that has been arrived at between the petitioner and the respondent no.2 as I am living peacefully now with the petitioner. I had lived with my parents-in-law for a period of eight months and thereafter I went to my parental home and after reconciliation with the petitioner, I am living with the petitioner since the

year 2013.

I am a graduate and prior to the birth of my child, I used to teach.

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**