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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **CRL.M.C. 3172/2018**

**MUKESH KUMAR & ORS.** ..... Petitioners  
Through: Mr.Rishabh Jetly, Advocate

versus

**STATE & ANR.** ..... Respondent  
Through: Mr.Izhar Ahmad, APP for State  
with SI Prem Kumar, PS Sangam  
Vihar

**CORAM:**  
**HON'BLE MS. JUSTICE ANU MALHOTRA**

**ORDER**

% **01.06.2018**

**CrL.M.A. No. 11117/2018 (Exemption)**

This is an application filed on behalf of the petitioner for exemption from filing certified copies of the annexures.

Exemption allowed, subject to just exceptions.

**CrL.M.C. No. 3172/2018**

Petitioners No.1,3 4 and 5 are present in person. It is submitted on behalf of the petitioners that petitioner No.2 is not present as the petitioner No.2 is unwell and is hospitalized at the Dr. Baba Saheb Ambedkar Hospital, Rohini, New Delhi and a medical document in relation thereto has been submitted.

Vide the present petition, the petitioners seek quashing of FIR No.582/14, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Sangam Vihar submitting *inter alia* to the effect that a settlement has been arrived at between the petitioners and the

respondent No.2 vide settlement document dated 13.07.2017 (EX.CW-2/A) executed between the petitioners and the respondent No.2. whereby the marriage between the petitioner No.1 and the respondent No.2 has since been dissolved vide a decree of divorce through mutual consent 5.3.2018 of the Court of Principal Judge, Family Courts, South, Saket, New Delhi, in HMA No.151/2018 under Section 13(B)(2) of the Hindu Marriage Act, 1955 and the photocopy of the decree sheet on the record is Ex.CW-2/C.

The Investigating Officer of the case is present and has identified the petitioners No.1,3, 4 and 5, *namely*, Mukesh Kumar, Rajesh Kumar, Bimla and Pankaj as being the accused and has also identified the photograph of the petitioner No.2 at page 60 on the record and the respondent No.2 as being the complainant in relation to the FIR in question. The Investigation Officer has also testified to the effect that apart from the persons named in the charge sheet the two other persons named in the FIR are Smt. Indira, who has since expired which fact is also affirmed by the respondent No.2 present in the Court, whereas, cognizance has not been taken against Jhamman Lal. The proofs of identities of the petitioners No.1 to 5 and the respondent no.2 on the record are in the form of Aadhar Cards in being EX.CW-1/A to EX.CW-1/E respectively.

The respondent No.2 in her examination on oath by the Court has affirmed having signed her affidavit (EX.CW-2/B) annexed to the petition and also testified to having signed the settlement document (EX.CW-2/A) dated 13.7.2017 executed between her and the petitioners voluntarily of her own accord without any duress, coercion

or pressure from any quarter. She further testified to the effect that pursuant to the settlement arrived at between her and the petitioners, a sum Rs. 2,00,000/- (Rs.Two Lakhs only) is to be paid to her by the petitioners of which a sum of Rs.1,50,000/- has already been received by her previously and the balance sum of Rs. 50,000/- has been received by her today in Court vide a Demand Draft bearing No. 459134 dated 4.5.2018 drawn on the Punjab National Bank in her name Niresh Choudhary in which name she has the bank account. The photocopy of which is on the record as Ex.CW-2/D and now there are no claims of hers left against the petitioners.

*Inter alia*, the respondent No.2 has 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 5.3.2018 of the Court of Principal Judge, Family Courts, South, Saket, New Delhi, in HMA No.151/2018 under Section 13(B)(2) of the Hindu Marriage Act, 1955, a photocopy of the decree sheet is Ex.CW-2/C. She also states that in view of the settlement arrived at between her and the petitioners, she does not oppose the prayer made by the petitioners seeking quashing of the FIR in question.

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.582/14, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Sangam Vihar and all consequential proceedings emanating therefrom. 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 nor any other persons named in the said FIR. 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 5.3.2018 of the Court of Principal Judge, Family Courts, South, Saket, New Delhi, in HMA No.151/2018 under Section 13(B)(2) of the Hindu Marriage Act, 1955, and 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 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.582/14, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Sangam Vihar and all consequential proceedings emanating therefrom against the petitioners and all others named in the said FIR are thus quashed.

The petition is disposed of.

A copy of the order be given *dasti* under the signatures of the Court Master.

**ANU MALHOTRA, J**

**JUNE 01, 2018/sv**

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

**Item No. 20**

**Crl. M.C. 3172/2018**

**MUKESH KUMAR & ORS. Vs. STATE & ANR.**

**CW-1 SI PREM KUAMR POLICE STATION SANGAM VIHAR.  
ON S.A.**

I identify the petitioners No.1,3, 4 and 5, *namely*, Mukesh Kumar, Rajesh Kumar, Bimla and Pankaj as being the accused and the respondent No.2, NireeshChoudhary @ Neeru as being the complainant of FIR No.582/14, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Sangam Vihar present in the Court today. I identify the photograph of the petitioner No.2 at page 60 on the record. The identities of the petitioners No. 1,2,3,4 and 5 and the respondent No.2 in the form of original Aadhaar Cards have been produced, the photocopies of the same qua the petitioners No.1 to 5 and respondent No.2 are EX.CW-1/A to Ex.CW-1/E respectively (Originals seen & returned.). The FIR was registered against one more accused Smt. Indira, the mother-in-law of the respondent No.2 who has since expired.

**RO & AC  
1.6.2018.**

**ANU MALHOTRA, J**

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

**Item No. 20**

**CrI. M.C. 3172/2018**

**MUKESH KUMAR & ORS. Vs. STATE & ANR**

**CW-2 NIRESH CHOUDHARY D/O MEHTAB SINGH R/O G-386,  
SANGAM VIHAR, NEAR MAYA GOYAL PUBLIC SCHOOL.  
ON S.A.**

I do not oppose the prayer made by the petitioners No.1 to 5, *namely*, Mukesh Kumar, Poonam, Rajesh Kumar, Bimla and Pankaj FIR No.582/2014 under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Sangam Vihar, nor do I want them to be punished in relation thereto in view of the settlement arrived at between me and the petitioners at Mediation Centre, Saket Courts, New Delhi and copy of the settlement document bears my signatures thereon at point 'A' on Ex.CW-2/A. My affidavit annexed to the petition bears my signatures thereon at points A and B on Ex.CW-2/B which documents I have signed voluntarily of my own accord without any duress pressure or coercion from any quarter. The FIR was also registered against Smt. India my mother-in-law, who has since expired and the cognizance of the offence was not taken against Jhamman Lal. The marriage between me and the petitioner No.1 has since been dissolved vide a decree of divorce dated 5.3.2018 of the Court of Principal Judge, Family Courts, South, Saket, New Delhi, in HMA No.151/2018 under Section 13(B)(2) of the Hindu Marriage Act, 1955 No., a photocopy of the decree sheet is Ex.CW-2/C. In terms of the settlement arrived at between me and the petitioners dated 13.7.2017, a total sum of Rs.200,000/- is to be paid to me by the petitioners of which a sum of Rs.1,50,000/- has



already been received by me previously and the balance sum of Rs.50,000/- has been received by me today in Court in the form of Demand Draft No. 459134 dated 4.5.2018 drawn on Punjab National Bank in my name Niresh Choudhary in which name. The photocopy of which is on record as Ex.CW-2/D. There are now no claims of mine left against the petitioners. I have my bank account. I have made my statement voluntarily of my own accord without any duress, pressure or coercion from any quarter.

**RO & AC**  
**1.6.2018.**

**ANU MALHOTRA, J**

