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

+ **CRL.M.C. 2453/2018 & CRL.M.A. 8736/2018**

SUBHASH & ORS

..... Petitioner

Through: Mr. Ranjeet Kr. Singh, Adv. with
petitioners.

versus

THE STATE (GOVT OF NCT OF DELHI) & ANR..... Respondent

Through: Mr. Raghuvinder Varma, APP for
State with SI Rishikesh, PS Tughlak
Road.

Mr. Arun Singh, Adv. for R-2.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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09.05.2018

Vide the present petition, the petitioners seek quashing of FIR No.85/2009, registered at PS Tughlak Road, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom submitting to the effect that a settlement has been arrived at between the parties and all disputes have been amicably resolved.

The Investigating Officer of the case present today in Court has identified the petitioner no.1 Shri Subhash, s/o Shri Ram Kishan, petitioner no.2 Shri Ram Kishan, s/o late Shri Surjan Singh, petitioner no.3 Smt. Santra Devi, w/o Shri Ram Kishan, petitioner no.4 Shri Anil Kumar, s/o Shri Ram Kishan, petitioner no.5 Shri Sunil Kumar and petitioner no.6 Ms. Pinki, w/o Botto as being the accused arrayed in FIR No.85/2009, registered at PS Tughlak Road, under Sections 498A/406/34 Indian Penal Code, 1860 and has also identified the respondent no.2 Ms. Kavita present today in Court as

to 6 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/G respectively, originals of which have been seen and returned.

The respondent no.2 in her deposition on oath on examination 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 also signed the mediation settlement dated 27.10.2017 arrived at the Delhi Mediation Centre, PHC, New Delhi as Ex. CW2/B voluntarily of her own accord without any duress or coercion from any quarter. The respondent no.2 has further testified to the effect that the marriage between her and the petitioner no.1 has been dissolved vide decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 28.03.2018 of the Court of the Principal Judge, Family Court, Patiala House Courts, New Delhi in HMA No.281/18, certified copy of which is on the record as Ex. CW2/C and that in terms of the said settlement arrived at between her and the petitioners, the minor child named Tamanna born of the wedlock between her and the petitioner no.1, is in her custody and shall continue to remain in her custody. She has further testified to the effect that in terms of the settlement arrived at between her and the petitioners, a total sum of Rs.5.75 lakhs was to be paid to her by the petitioners, of which a sum of Rs.3.84 lakhs has been received by her previously and the balance sum of Rs.1.91 lakh has been handed over to her by the petitioners today in Court in the form of a Demand Draft bearing no.970773 dated 08.05.2018 in the name of her daughter named Tamanna drawn on Bank of Baroda, copy of

which is on the record as Ex. CW2/D and further stated that there are no

claims of hers left against the petitioners now and that she does not oppose the prayer made by the petitioners seeking quashing of the FIR in question nor does she 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 12th.

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 taking into account the factum of the dissolution of the vide decree of divorce through mutual consent under vide decree dated 28.03.2018 of the Court of the Principal Judge, Family Court, Patiala House Courts, New Delhi in HMA No.281/18, certified copy of which is on the record as Ex. CW2/C, it is apparent that the matrimonial discord between the petitioner no.1 and the respondent no.2 has since been resolved. In view of the circumstances of the case, it is considered appropriate to put a quietus to the litigation 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

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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.85/2009, registered at PS Tughlak Road, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner no.1 Shri Subhash, petitioner no.2 Shri Ram Kishan, petitioner no.3 Smt. Santra Devi, petitioner no.4 Shri Anil Kumar, petitioner no.5 Shri Sunil Kumar and petitioner no.6 Ms. Pinki, are quashed.

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Vs. THE STATE (GOVT OF NCT OF DELHI) & ANR

Statement of CW1 : SI Rishikesh, PS Tughlak Road, Delhi.

ON S.A.

I identify the petitioner no.1 Shri Subhash, s/o Shri Ram Kishan, petitioner no.2 Shri Ram Kishan, s/o late Shri Surjan Singh, petitioner no.3 Smt. Santra Devi, w/o Shri Ram Kishan, petitioner no.4 Shri Anil Kumar, s/o Shri Ram Kishan, petitioner no.5 Shri Sunil Kumar and petitioner no.6 Ms. Pinki, w/o Botto as being the accused arrayed in FIR No.85/2009, registered at PS Tughlak Road, under Sections 498A/406/34 Indian Penal Code, 1860. I also identify the respondent no.2 Ms. Kavita present today in Court as being the complainant thereof. The proofs of identity of the petitioner nos. 1 to 6 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/G respectively. (Originals seen and returned.)

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

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Vs. THE STATE (GOVT OF NCT OF DELHI) & ANR

Statement of CW2 : Smt. Kavita, d/o Shri Karamvir Singh, aged 35 years, r/o D-332, Moti Bagh, Part-1, Chanakya Puri, New Delhi.

ON S.A.

My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/A. The copy of the mediation settlement dated 27.10.2017 arrived at the Delhi Mediation Centre, PHC, New Delhi also 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.

The marriage between me and the petitioner no.1 has been dissolved vide decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 28.03.2018 of the Court of the Principal Judge, Family Court, Patiala House Courts, New Delhi in HMA No.281/18, certified copy of which is on the record as Ex. CW2/C. There is a child named Tamanna born of the wedlock between me and the petitioner no.1 and in terms of the said settlement arrived at between me and the petitioners, she is in my custody and shall continue to remain in my custody.

In terms of the settlement arrived at between me and the petitioners, a total sum of Rs.5.75 lakhs was to be paid by the petitioners, of which a sum of Rs.3.84 lakhs has been received by me previously and the balance sum of Rs.1.91 lakh has been handed over to me by the petitioner today in Court in the form of a Demand Draft bearing no.970773 dated 08.05.2018 in the

name of my daughter Tamanna drawn on Bank of Baroda, copy of which is on the record as Ex. CW2/D. There are no claims of mine left against the petitioners now. I thus do not oppose the prayer made by the petitioners seeking quashing of the FIR No.85/2009, registered at PS Tughlak Road, under Sections 498A/406/34 Indian Penal Code, 186 nor do I want the petitioners to be punished in relation thereto in view of the settlement arrived at between me and the petitioners.

I have studied upto 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**