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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 2788/2018 & CRL.M.A. 9917-9918/2018**

AADITYA GOYAL & ORS

..... Petitioners

Through: Petitioners in person with Mr. K.K. Tiwari, Mr. Pankaj K Tiwari, Advocates.

versus

STATE (NCT OF DELHI) & ANR

..... Respondents

Through: Mr. Sanjeev Sabharwal, APP for State with W/SI Priyanka, PS Mehrauli. R-2 in person with Mr. Ajay Kumar Verma, Advocate for R-2.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **29.05.2018**

Vide the present petition, the petitioners seek quashing of the FIR No. 1725/16, PS Mehrauli under Sections 498-A/406/377/34 of the Indian Penal Code, 1860 & Sections 3 & 4 of the Dowry Prohibition Act, 1961 submitting to the effect that a settlement has since been arrived at between the petitioners and the respondent no. 2 and that there are no disputes left *inter se*.

The Investigating Officer of the case present in Court has identified the petitioner no. 1 Aaditya Goyal, petitioner no. 2 Rajender Prasad Goyal, petitioner no. 3 Urmil Goyal, petitioner no. 4 Mohit Goyal and petitioner no. 5 Rohit Goyal as being the five accused arrayed in the FIR No.1725/16, PS Mehrauli under Sections 498A/406/377/34 of the Indian Penal Code, 1860 & Sections 3 & 4 of

the Dowry Prohibition Act, 1961. I also identify the respondent no. 2 Ms. Priya Mittal as being the complainant of the said FIR present in Court today. Apart from the petitioner nos. 1 to 5 there are no other persons named as accused in the said FIR.

The respondent no. 2 in her deposition on oath by the Court has affirmed the execution of the mediation settlement dated 13.07.2017 between the parties arrived at the Delhi High Court Mediation & Conciliation Centre, copy of which is on the record as Ex. CW2/A. She has also affirmed having sworn her affidavit Ex. CW2/C in support of the averments made in the petition. The respondent no. 2 has also testified to the effect that in terms of the settlement, a total sum of Rs. 20 lakhs was agreed to be paid to her by the petitioners out of which a sum of Rs. 13 lakhs has been received by her previously and a balance sum of Rs.7 lakhs placed on the record of this petition in a sealed cover in terms of proceedings dated 22.05.2018 on unsealing of the same has now been handed over to her by the petitioners vide demand drafts bearing no. 006366 dated 25.04.2018, 006365 dated 23.04.2018, 006359 dated 19.04.2018, 006360 dated 20.04.2018, 006374 dated 03.05.2018, 006379 dated 08.05.2018 and 006380 dated 09.05.2018, all are for a sum of Rs. 1 lakh each and drawn on the HDFC Bank in her favour, photocopies of which are directed to be placed on the record and she states that there are now no claims of hers left against the petitioners. *Inter alia* she states that there is no child born out of the wedlock between her and the petitioner no. 1 and that the marriage between her and the petitioner

no. 1 has been dissolved by a decree of divorce through mutual consent under Section 13(B)(2) of the HMA in HMA No.503/18 dated 11.05.2018 of the Court of the Principal Judge, Family Court, South Saket, copy thereof is issued by the said court is on the record as Ex. CW2/B. She has further stated that she is a Chartered Accountant.

On behalf of the State, there is no opposition to the prayer made by the petitioners seeking quashing of the FIR in question and all consequential proceedings emanating therefrom in view of the settlement arrived at between the parties. 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 as apparently the FIR emanates from a matrimonial discord between the parties qua the offence punishable under Sections 498-A/406/34 of the Indian Penal Code, 1860 & Sections 3 & 4 of the Dowry Prohibition Act, 1961, 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)

It is also considered appropriate to put a quietus to the litigation between the parties therein qua the offence punishable under Section 377 of the Indian Penal Code, 1860 in view of the reliance placed upon by this Court in CRL.M.C.5290/17 in “**MAYANK BANSAL & ORS. Vs. THE STATE GOVT OF NCT OF DELHI & ANR.**” on the verdict of the Hon’ble Supreme Court in *Wasim Anwar Vs. State*

of NCT of Delhi & Another, (2018) SCC On Line SC 316, in which leave was granted by the Hon'ble Supreme Court against a verdict of this Court in **Crl.A.No.703/2017** whereby a petition seeking quashing under Section 377 of the Indian Penal Code, 1860 under Section 482 of the Code of Criminal Procedure, 1973 was not permitted in view of the verdict of the Apex Court in "Narender Singh and State of Punjab" **making specific observations to the effect that where the dispute between the parties was a matrimonial discord in nature and the parties had settled the dispute in the Family Court and that the settlement of the Family Court formed part of the judgment in the form of decree of divorce between the parties, it was observed to the effect:**

"Since the parties have settled the disputes amongst themselves and they are at peace, we do not find any reason for continuing the criminal case. Be it noted that even if the parties are sent to trial, the same is only to end up in acquittal in view of the settlement and the submission made by the defacto complainant before this Court. In the above circumstances, the appeal is allowed and the judgment dated 20.2.2017 passed by the High Court is set aside. FIR No. 258/2014 on the file of police station Jafarabad, Delhi is quashed."

Thus as the parties in the said case had settled the disputes amongst themselves, it was held that there was no reason to continue with the criminal case in view of the settlement made before the Family Court, Counsellor, Saket.

The verdict of this Court in **Anil Kumar Garg & Ors. vs. State**

& Anr. in WP (Crl.) 2159/2017, dated 11.09.2017 is in similar circumstances whereby permission for quashing an FIR 409/2016, PS Vikaspuri u/s 498A/406/377/351/354(A) of the Indian Penal Code, 1860 was granted in view of the disputes having been amicably resolved, vide dissolution of the marriage between the spouses through mutual consent. Thus, as the provisions of Section 377 in the instant case have been put forth in relation to a matrimonial dispute, despite its criminal overtones in the facts and circumstances of the instant case, it is considered appropriate to put a quietus to the litigation in relation thereto, for maintenance of peace and harmony between the petitioners and the respondent no. 2 and also for the well being of the parties. In view thereof, the FIR No. 1725/16, PS Mehrauli under Sections 498-A/406/377/34 of the Indian Penal Code, 1860 & Sections 3 & 4 of the Dowry Prohibition Act, 1961 and all consequential proceedings emanating therefrom are thus quashed.

The petition is disposed of.

ANU MALHOTRA, J

MAY 29, 2018/NC

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CRL.M.C. 2788/2018

AADITYA GOYAL & ORS.

Vs. STATE & ANR

Statement of CW1 : W/SI Priyanka, PS Mehrauli, Delhi.

ON S.A.

I identify the petitioner no. 1 Aaditya Goyal, petitioner no. 2 Rajender Prasad Goyal, petitioner no. 3 Urmil Goyal, petitioner no. 4 Mohit Goyal and petitioner no. 5 Rohit Goyal as being the five accused arrayed in the FIR No. 1725/16, PS Mehrauli under Sections 498-A/406/377/34 of the Indian Penal Code, 1860 & Sections 3 & 4 of the Dowry Prohibition Act, 1961. I also identify the respondent no. 2 Ms. Priya Mittal as being the complainant of the said FIR present in Court today. Apart from the petitioner nos. 1 to 5 there are no other persons named as accused in the said FIR.

ANU MALHOTRA, J

RO & AC

MAY 29, 2018

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CRL.M.C. 2788/2018

AADITYA GOYAL & ORS.

Vs. STATE & ANR

Statement of CW2 : Ms. Priya Mittal, d/o Shri Pramod Mittal, aged 30 years, r/o E-541, Kamla Nagar Agra and previously resident of 252, Purana Ramleela Chowk, Chattarpur, Meharauli, New Delhi.

ON S.A.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No. 1725/16, PS Mehrauli under Sections 498-A/406/377/34 of the Indian Penal Code, 1860 & Sections 3 & 4 of the Dowry Prohibition Act, 1961 nor do I want them to be punished in relation thereto in view of the settlement arrived at between me and the petitioners.

Vide the mediation settlement dated 13.07.2017 arrived at Delhi High Court Mediation Centre between me and the petitioners bears my signatures at point A on Ex. CW2/A. Pursuant to the said settlement, a total sum of Rs. 20 lakhs was agreed to be paid to me by the petitioners out of which a sum of Rs. 13 lakhs has been received by me previously and a balance sum of Rs.7 lakhs placed on the record of this petition in a sealed cover in terms of proceedings dated 22.05.2018 on unsealing of the same has now been handed over to me now by the petitioners vide demand drafts bearing no. 006366 dated 25.04.2018, 006365 dated 23.04.2018, 006359 dated 19.04.2018, 006360 dated 20.04.2018, 006374 dated 03.05.2018, 006379 dated 08.05.2018 and 006380 dated 09.05.2018, all are for a sum of Rs. 1 lakh each and drawn on the HDFC Bank in my favour, photocopies of which are directed to be placed on the record. 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) of the HMA in HMA No.503/18 dated 11.05.2018 of the Court of the Principal Judge, Family Court, South Saket, copy thereof is issued by the said court is Ex. CW2/B.

I am a Chartered Accountant.

My affidavit annexed to the petition bears my signatures thereon at points A & B on Ex. CW2/C.

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 29, 2018**