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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 2785/2018 & CRL.M.A. 9911/2018

RAKESH KUMAR & ORS.

..... Petitioners

Through: Mr. R.K. Naveen, Mr. Manish & Mr.
Sandeep, Advocates.

versus

STATE & ANR.

..... Respondents

Through: Mr. Sanjeev Sabharwal, APP for State
with ASI Asmita, PS Najafgarh.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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22.05.2018

Vide the present petition, the petitioners seek quashing of the FIR No.489/2016, registered at PS Najafgarh, under Sections 498A/406/34 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 present today has identified the photograph of the petitioner no. 5 on the record as being one of the accused arrayed in the FIR in question and has testified to the effect that apart from petitioner nos.1 to 6 there are no other persons named as accused in the FIR. He has identified the petitioner nos. 1 to 4 & 6 and the respondent no. 2 as being the complainant thereof present today in the Court. The proofs of identity of the petitioner nos. 1 to 6 and of the respondent no. 2 in the form of photocopies of their Aadhar

Cards are on the record as Ex. CW1/A to Ex. CW1/G, originals of which have been seen and returned.

The respondent no. 2 in her examination on oath by the Court has affirmed having sworn her affidavit Ex.CW2/A in support of the averments made in the petition. She has testified to the effect that in terms of the settlement dated 26.08.2017, copy of which is on the record as Ex.CW2/B which has been amended qua the mode of payment vide the amended MOU dated 08.09.2017, copy of which is on the record as Ex.CW2/C and on both of which she has identified her signatures and has further testified to the effect that all the disputes between her and the petitioner no.1 have since been resolved in view of the settlement arrived at between the petitioners and the respondent no. 2, a total sum of Rs. 4 lakhs was agreed to be paid to her by the petitioners out of which a sum of Rs. 3 lakhs has been received by her previously and a balance sum of Rs. 1 lakh has been handed over to her today by the petitioners vide a demand draft bearing no. 851013 dated 19.05.2018 in her favour drawn on the Corporation Bank, Delhi, photocopy of which is directed to be placed on the record and has further testified to the effect that there are now no claims of hers left against the petitioners. The respondent no. 2 has further 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 under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree of the Court of the Principal Judge, Family Court, South-West District Dwarka Courts in HMA No.

697/18, photocopy of which is on the record as Ex. CW2/D. She has further submitted that in terms of the settlement arrived at between her and the petitioner no. 1, the minor child born out of the wedlock between her and the petitioner no.1 is in the custody of the petitioner no. 1 and shall continue to remain in his custody. *Inter alia* she has stated that she has studied till Standard 12th and that she has arrived at a settlement with the petitioners voluntarily of her own accord without any duress, coercion or pressure from any quarter.

On behalf of the State, there is no opposition to the prayer made by the petitioners seeking quashing of the FIR in question in view of the settlement arrived at between the parties and as it is apparent that the FIR was got registered due to a matrimonial discord between the parties which has since been resolved as the marriage between the petitioner no. 1 and the respondent no. 2 has been dissolved vide a decree of divorce, copy of which is on the record as Ex.CW2/D as hereinabove. There thus appears no reason to disbelieve the statement of 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 all the claims between her and the petitioners have been settled. Thus, for maintenance of peace and harmony between the petitioners and the respondent no. 2 and for the well being of the respondent no. 2 and the minor child, 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 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)

the FIR No. 489/2016, registered at PS Najafgarh, under

Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner nos. 1 to 6 are quashed.

The petition is disposed of.

ANU MALHOTRA, J

MAY 22, 2018/NC

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CRL.M.C. 2785/2018
RAKESH KUMAR & ORS
Vs.STATE & ANR

Statement of CW1 : ASI Asmita, PS Najafgarh, Delhi.

ON S.A.

I identify the petitioner no.1 Shri Rakesh Kumar, petitioner no.2 Shri Balraj, petitioner no.3 Smt. Kanta, petitioner no.4 Deepak and petitioner no.6 Savita present today as being the accused along with co-accused Babita who is arrayed as petitioner no. 5 to the petition and arrayed as accused in FIR No.489/2016, registered at PS Najafgarh, under Sections 498A/406/34 Indian Penal Code, 1860. I also identify the respondent no.2 Ms. Bindu Devi @ Vandana 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 their Aadhar Cards 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.

ANU MALHOTRA, J

**RO & AC
MAY 22, 2018**

Statement of CW2 : Smt. Bindu Devi @ Vandana, d/o Shri Dilbag Singh, aged 27 years, r/o 32, N-1 Block, New Roshanpura, Najafgarh, Delhi.

ON S.A.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.489/2016, registered at PS Najafgarh, under Sections 498A/406/34 Indian Penal Code, 1860 in view of the settlement arrived at between me and the petitioners.

My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/A. A settlement has since been arrived at between me and the petitioners. Vide the settlement dated 26.08.2017 which was amended on 08.09.2017 in relation to the mode of payment agreed to be paid to me by the petitioners. In terms of settlement dated 26.08.2017, a total sum of Rs. 4 lakhs was agreed to be paid to me by the petitioners out of which a sum of Rs. 3 lakhs has been received by me previously and a balance sum of Rs. 1 lakh has been handed over to me today by the petitioners vide a demand draft bearing no. 851013 dated 19.05.2018 in my favour drawn on the Corporation Bank, Delhi, photocopy of the same be placed on the record. There are now no claims of mine left against the petitioners. The said MOU dated 26.08.2017 bears my signatures as visible at point A on Ex.CW2.B and the amended MOU dated 08.09.2017 bears my signatures at point A on Ex. CW2/C. In terms of the settlement arrived at between me and the

petitioners, the minor child born out of the wedlock between me and the petitioner no. 1 is in the custody of the petitioner no. 1 and shall continue to remain in his custody. 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 of the Court of the Principal Judge, Family Court, South-West District Dwarka Courts in HMA No.697/18, copy of which is on the record as Ex. CW2/D.

I do not want the petitioner nos. 1 to 6 to be punished in relation to the FIR No.489/2016, registered at PS Najafgarh, under Sections 498A/406/34 Indian Penal Code, 1860.

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 22, 2018**