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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 2737/2018 & CRL.M.A. 9751/2018**

AJAY KUMAR SHARMA @ BALRAJ & ORS Petitioner
Through: Mr. Ocean Choudhary, Adv.

versus

THE STATE (GOVT OF NCT OF DELHI) & ANR..... Respondent
Through: Mr. Izhar Ahamd, APP for State with
SI Deshpal, PS Gandhi Nagar.
Ms. Jyoti Gupta, Adv. for R-2.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **21.05.2018**

Vide the present petition, the petitioners seek quashing of FIR No.205/2012, registered at PS Gandhi Nagar, 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 vide the mediation settlement dated 25.06.2016 arrived at the Delhi Mediation Centre, KKD Courts, Delhi pursuant to which, all claims between the petitioners and the respondent no.2 have been settled and the marriage between the petitioner no.1 and the respondent no.2 has since been dissolved vide a decree of divorce through mutual consent.

The Investigating Officer of the case present today in Court has identified the petitioner no.1 Shri Ajay Kumar Sharma, s/o Shri Ashok Kumar Sharma, petitioner no.2 Shri Ashok Kumar Sharma, s/o Shri Prabhu Dayal Sharma, petitioner no.3 Smt. Maya Sharma, w/o Shri Ashok Kumar

Sharma, petitioner no.4 Shri Pankaj Kumar Sharma, s/o Shri Ashok Kumar Sharma, petitioner no.5 Smt. Meetu Sharma, w/o Shri Pankaj Sharma, petitioner no.6 Smt. Meenakshi Sharma, d/o Shri Ashok Kumar Sharma and petitioner no.7 Shri Pravesh Bhardwaj, s/o Shri Daulat Ram as being the seven accused arrayed in FIR No.205/2012, registered at PS Gandhi Nagar, under Sections 498A/406/34 Indian Penal Code, 1860 and has also identified the respondent no.2 Ms. Vaishali @ Nancy present today in Court as being the complainant thereof. The proofs of identity of the petitioner nos. 1 to 7 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/H respectively, originals of which have been seen and returned.

The respondent no.2 in her deposition on oath by the Court has affirmed having sworn her affidavit annexed to the petition as Ex.CW2/B and has further testified to having signed the mediation settlement dated 25.06.2016 as Ex. CW2/C 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 a decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 30.01.2017 of the Court of the Principal Judge, District East, Family Court, Vishwas Nagar, New Delhi in HMA No.104/17, copy of which has been submitted and is taken on the record as Ex. CW2/A and that there is no child born of the wedlock between her and the petitioner no.1. She has further stated that in terms of the settlement arrived at between her and the petitioners, a total sum of Rs.2.50 lakhs was to be paid to her by the petitioners, of which a sum

of Rs.2 lakhs has been received by her previously and the balance sum of Rs.50,000/- has been handed over to her by the petitioner today in Court in the form of a demand draft bearing no.976730 dated 18.05.2018 in her favour drawn on DCB Bank, copy of which is on the record as Ex. CW2/D and that there are no claims of hers left against the petitioners now and that she is a graduate and she does not oppose the prayer made by the petitioners seeking quashing of the FIR in question nor does she want the petitioner to be punished in relation thereto.

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 as the present FIR in question has been registered on the basis of a matrimonial discord which has since been dissolved vide dissolution of the marriage between the petitioner no.1 and the respondent no.2 through mutual consent and that all claims between the parties have been settled in terms of the mediation settlement Ex. CW2/C, it is considered appropriate to put a quietus to the litigation between the parties for maintenance of peace and harmony 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)

The FIR No.205/2012, registered at PS Gandhi Nagar, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners are quashed.

ANU MALHOTRA, J

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AJAY KUMAR SHARMA @ BALRAJ & ORS

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

Statement of CW1 : SI Desh Pal, PS Gandhi Nagar, Delhi.

ON S.A.

I identify the petitioner no.1 Shri Ajay Kumar Sharma, s/o Shri Ashok Kumar Sharma, petitioner no.2 Shri Ashok Kumar Sharma, s/o Shri Prabhu Dayal Sharma, petitioner no.3 Smt. Maya Sharma, w/o Shri Ashok Kumar Sharma, petitioner no.4 Shri Pankaj Kumar Sharma, s/o Shri Ashok Kumar Sharma, petitioner no.5 Smt. Meetu Sharma, w/o Shri Pankaj Sharma, petitioner no.6 Smt. Meenakshi Sharma, d/o Shri Ashok Kumar Sharma and petitioner no.7 Shri Pravesh Bhardwaj, s/o Shri Daulat Ram as being the seven accused arrayed in FIR No.205/2012, registered at PS Gandhi Nagar, under Sections 498A/406/34 Indian Penal Code, 1860. I also identify the respondent no.2 Ms. Vaishali @ Nancy present today in Court as being the complainant thereof. The proofs of identity of the petitioner nos. 1 to 7 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/H respectively. (Originals seen and returned.)

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

ANU MALHOTRA, J

RO & AC

MAY 21, 2018

Statement of CW2 : Smt. Vaishali @ Nancy, d/o Shri Dharmender Chauhan, aged 27 years, r/o 9/5855, Subhash Mohalla, Gandhi Nagar, New Delhi.

ON S.A.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.205/2012, registered at PS Gandhi Nagar, under Sections 498A/406/34 Indian Penal Code, 1860 in view of the settlement arrived at between me and the petitioners.

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 30.01.2017 of the Court of the Principal Judge, District East, Family Court, Vishwas Nagar, New Delhi in HMA No.104/17, copy of which is on the record as Ex. CW2/A. There is no child born of the wedlock between me and the petitioner no.1.

My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/B. The mediation settlement dated 25.06.2016 arrived at the Delhi Mediation Centre, KKD Courts, Delhi bears my signature as visible thereon at point-A on Ex. CW2/C. I have signed both these documents voluntarily of my own accord without any duress, pressure or coercion from any quarter.

In terms of the settlement arrived at between me and the petitioners, a total sum of Rs.2.50 lakhs was to be paid by the petitioners, of which a sum

of Rs.2 lakhs has been received by me previously and the balance sum of Rs.50,000/- has been handed over to me by the petitioner today in Court in the form of a demand draft bearing no.976730 dated 18.05.2018 in my favour drawn on DCB Bank, copy of which is on the record as Ex. CW2/D. There are no claims of mine left against the petitioners now.

I am a graduate.

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 21, 2018**