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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 2866/2018 & CRL.M.A. 10150/2018**

SANJEEV KUMAR & ORS

..... Petitioners

Through: Mr. Anuj Kr. Ranjan & Mr. Amit
Kumar, Advocates.

versus

STATE (NCT OF DELHI) & ANR

..... Respondents

Through: Mr. Panna Lal Sharma, APP for State
with SI Ajay Swami, PS Mansarovar
Park.
R-2 in person with Mr. Ashish Kr.
Bhagat, Adv for R-2.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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24.05.2018

Learned counsel for the respondent no.2 submits that he had already filed his due authorization on behalf of the respondent no. 2.

Vide the present petition, the petitioners seek quashing of the FIR No.7/2016, registered at PS Mansarovar Park, under Sections 498A/406/34 Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act, 1961 submitting to the effect that a settlement has since been arrived at between the parties and all the disputes between them have been amicable resolved.

The Investigating Officer of the case present in Court has identified the petitioner no.1 Sanjeev Kumar, petitioner no. 2 Shri

Pyarelal, petitioner no.3 Smt. Soma Devi, petitioner no.4 Sh. Harish, petitioner no. 5 Sh. Anil, petitioner no.6 Sh. Manoj Kumar, petitioner no. 7 Smt. Rita, petitioner no. 8 Smt. Neelam, petitioner no. 9 Smt. Sangeeta and petitioner no. 10 Smt. Reshma @ Kusum as being the ten accused arrayed in the said FIR No.7/2016, registered at PS Mansarovar Park, under Sections 498A/406/34 Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act, 1961 and has stated that there are no other persons arrayed as accused in the said FIR. He has also identified the respondent no.2 Smt. Soni Pal present today in Court as being the complainant thereof. The proofs of identity of the petitioner nos. 1 to 10 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/K respectively, 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 annexed to the petition and has also testified to having signed the mediation settlement dated 01.11.2017, i.e., Ex. CW2/B voluntarily of her own accord without any duress, coercion or pressure from any quarter. *Inter alia* she has stated that in terms of settlement arrived at between her and the petitioners, a total sum of Rs. 6 lakhs was agreed to be paid to her by the petitioners out of which a sum of Rs. 3.50 lakhs has been received by her previously and a balance sum of Rs. 2.50 lakhs has been handed over to her today by the petitioners vide a demand draft bearing no. 502557 dated 23.05.2018 in her favour drawn on the

ICICI Bank, photocopy of which is directed to be placed on the record and has further stated that there are now no claims of hers left against the petitioners and *inter alia* she has further stated that in terms of the settlement arrived at between her and the petitioners, the minor child born out 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 factum of dissolution of her marriage with the petitioner no.1 vide a decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 of the Court of the Principal Judge, Family Court, South-East Saket Courts in HMA No.719/18, copy of which is on the record as Ex. CW2/C. She has further testified to the effect that she has studied till Standard 12th and that she has made her statement voluntarily of her own accord without any duress, pressure or coercion 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 the circumstances of the case. 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 and that all the disputes between the petitioner no. 1 and the respondent no. 2 have been settled and the marriage between the petitioner no. 1 and the respondent no. 2 had already been dissolved vide a decree of divorce through mutual consent, it is considered appropriate to put a quietus to the litigation between the parties, for maintenance of peace and harmony between the parties and for the well being of the minor child

and of the respondent no. 2, 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.7/2016, registered at PS Mansarovar Park, under

Sections 498A/406/34 Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act, 1961 and all consequential proceedings emanating therefrom against the petitioner no.1 Sanjeev Kumar, petitioner no.2 Shri Pyarelal, petitioner no.3 Smt. Soma Devi, petitioner no.4 Sh. Harish, petitioner no. 5 Sh. Anil, petitioner no.6 Sh. Manoj Kumar, petitioner no. 7 Smt. Rita, petitioner no. 8 Smt. Neelam, petitioner no. 9 Smt. Sangeeta and petitioner no. 10 Smt. Reshma @ Kusum are quashed.

The petition is disposed of.

ANU MALHOTRA, J

MAY 24, 2018/NC

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CRL.M.C. 2866/2018

SANJEEV KUMAR & ORS

Vs.STATE & ANR

Statement of CW1 : SI Ajay, PS Mansarovar Park, Delhi.

ON S.A.

I identify the petitioner no.1 Sanjeev Kumar, petitioner no.2 Shri Pyarelal, petitioner no.3 Smt. Soma Devi, petitioner no.4 Sh. Harish, petitioner no. 5 Sh. Anil, petitioner no.6 Sh. Manoj Kumar, petitioner no. 7 Smt. Rita, petitioner no. 8 Smt. Neelam, petitioner no. 9 Smt. Sangeeta and petitioner no. 10 Smt. Reshma @ Kusum as being the ten accused arrayed in the said FIR No.7/2016, registered at PS Mansarovar Park, under Sections 498A/406/34 Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act, 1961. I also identify the respondent no.2 Smt. Soni Pal present today in Court as being the complainant thereof. The proofs of identity of the petitioner nos. 1 to 10 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/K respectively. (Originals seen and returned.)

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

ANU MALHOTRA, J

RO & AC

MAY 24, 2018

Statement of CW2 : Smt. Soni Pal, d/o Shri Ram Pher, aged 28 years, r/o Gian Mandir, Jaitpur Badarpur and permanent residence of Tehsil Patti, PS Kohdor, Distt. Patparganj, U.P.

ON S.A.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.7/2016, registered at PS Mansarovar Park, under Sections 498A/406/34 Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act, 1961 in view of the settlement arrived at between me and the petitioners nor do I want the petitioners to be punished in relation thereto.

My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/A. The certified copy of mediation settlement dated 01.11.2017 arrived at Mediation Centre, Saket Courts New Delhi bears my signatures as visible on point A on Ex. CW2/B. I have signed both these documents voluntarily of my own accord without any duress, coercion or pressure from any quarter. In terms of settlement i.e., Ex. CW2/B arrived at between me and the petitioners, a total sum of Rs. 6 lakhs had been agreed to be paid to me by the petitioners out of which a sum of Rs. 3.50 lakhs has been received by me previously and a balance sum of Rs. 2.50 lakhs has been handed over to me today by the petitioners vide a demand draft bearing no. 502557 dated 23.05.2018 in my favour drawn on the ICICI Bank, photocopy of the same be placed on the record. There are now no claims of

mine left against the petitioners. 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 my custody and shall continue to remain in my custody.

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-East Saket Courts in HMA No.719/18, copy of which is on the record as Ex. CW2/C.

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 24, 2018**