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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 2893/2018
HARSH NIGAM & ORS Petitioner
Through: Mr. Anuj Yadav, Adv.

versus

STATE & ANR Respondent
Through: Mr. Kamal Kr. Ghei, APP
with SI Vinay Kumar, PS Mayur
Vihar.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **25.05.2018**

The petitioner no.4 is not present and is stated to be unwell.

Vide the present petition, the petitioners seek quashing of FIR No.714/2014, registered at PS Mayur Vihar, 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 between them have been amicably settled.

The Investigating Officer of the case present today in Court has identified the petitioner no.1 Shri Harsh Nigam, s/o Shri Ramesh Nigam, petitioner no.2 Shri Ramesh Nigam, s/o late Shri Krishan Lal Nigam, petitioner no.3 Smt. Gaytri Nigam, w/o Shri Ramesh Nigam and the photograph of the petitioner no.4 at page 44 of the petition as being the accused arrayed in FIR No.714/2014, registered at PS Mayur Vihar, under Sections 498A/406/34 Indian Penal Code, 1860 and has also identified the respondent no.2 Ms. Nikita Nigam present today in Court as being the

complainant thereof. The proofs of identity of the petitioner nos. 1 to 3 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/D respectively and the photograph of the petitioner no.4 at point-A at page no.44. (Originals seen and returned.). The Investigating Officer has further testified to the effect that apart from the petitioner nos.1-4, there are no other persons arrayed as accused in the said FIR in question.

The respondent no.2 in her deposition on oath on examination by the Court has affirmed having sworn her affidavit annexed to the petition as Ex.CW2/B and has further testified to having signed mediation settlement dated 19.12.2017, certified copy of which is on the record 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 decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 20.03.2018 of the Court of the Judge, Family Court, East District, KKD Courts, New Delhi in HMA No. 266/2018, copy of which is on the record as Ex. CW2/D and that there is no child born of the wedlock between her and the petitioner no.1 and she has further stated that she wants the settlement with the petitioners. She has further stated that pursuant to the settlement arrived at between her and the petitioners, a total sum of Rs.11 lakhs was to be paid to her by the petitioners, of which a sum of Rs.8 lakhs has been received by her previously and the balance sum of Rs.3 lakh has been handed over to her by the petitioner today in Court in the form of a demand draft bearing no.

244329 dated 24.05.2018 in her favour drawn on the Yes Bank Ltd., copy of which is on the record as Ex. CW2/A and 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 done B.Com.

Learned APP for the State submits that in view of the settlement arrived at between the parties, 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. Taking into account the factum that the respondent no.2 is adequately educated having done her B.Com and she understands the implications of the statement made by her, all claims between the petitioners and the respondent no.2 having been settled and the matrimonial discord between the petitioner no.1 and the respondent no.2 having been dissolved vide dissolution of the marriage between the petitioner no.1 and the respondent no.2 vide decree dated 20.03.2018 in HMA No.266/18 through mutual consent and taking into account the non-opposition on behalf of the State, 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)

In view thereof FIR No.714/2014, registered at PS Mayur Vihar, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners are quashed.

ANU MALHOTRA, J

MAY 25, 2018/vm

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CRL.M.C. 2893/2018
HARSH NIGAM & ORS
Vs. STATE & ANR.

Statement of CW1 : SI Vijay Kumar, PS Mayur Vihar, Delhi.

ON S.A.

I identify the petitioner no.1 Shri Harsh Nigam, s/o Shri Ramesh Nigam, petitioner no.2 Shri Ramesh Nigam, s/o late Shri Krishan Lal Nigam, petitioner no.3 Smt. Gaytri Nigam, w/o Shri Ramesh Nigam and the photograph of the petitioner no.4 at page 44 of the petition as being the accused arrayed in FIR No.714/2014, registered at PS Mayur Vihar, under Sections 498A/406/34 Indian Penal Code, 1860. I also identify the respondent no.2 Ms. Nikita Nigam present today in Court as being the complainant thereof. The proofs of identity of the petitioner nos. 1 to 3 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/D respectively and the photograph of the petitioner no.4 at point-A at page no.44. (Originals seen and returned.)

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

ANU MALHOTRA, J

**RO & AC
MAY 25, 2018**

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CRL.M.C. 2893/2018
HARSH NIGAM & ORS
Vs. STATE & ANR.

Statemet of CW2 : Smt.Nikita Nigam, d/o Shri Subhash Chand Nigam, aged 30 years, r/o B-19, Lovely Apartments, Mayur Vihar, New Delhi.

ON S.A.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.714/2014, registered at PS Mayur Vihar, under Sections 498A/406/34 Indian Penal Code, 1860 nor do I want the petitioners to be punished in relation thereto in view of the settlement arrived at between me and the petitioners arrived at Delhi High Court Mediation and Conciliation Centre. Pursuant to which a total sum of Rs.11 lakhs was to be paid to me by the petitioners, of which a sum of Rs.8 lakhs has been received by me previously and the balance sum of Rs.3 lakh has been handed over to me by the petitioner today in Court in the form of a demand draft bearing no. 244329 dated 24.05.2018 in my favour drawn on the Yes Bank Ltd., copy of which is on the record as Ex. CW2/A. There are no claims of mine left against the petitioners now.

My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/B. The copy of the mediation settlement dated 19.12.2017 bears my signature as visible thereon on each page and also on the last page at point-A thereof on Ex. CW2/C. 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 20.03.2018 of the Court of the Judge, Family Court, East District, KKD Courts, New Delhi in HMA No. 266/2018, copy of which is on the record as Ex. CW2/D. There is no child born of the wedlock between me and the petitioner no.1 and I want the settlement.

I have done B.Com.

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 25, 2018**