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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 3007/2018 & CRL.M.A. 10597/2018

MR. HARPREET SINGH & ORS. Petitioner

Through Mr. Paramjeet Singh, Adv. with P1 &
P2 in person.

versus

GOVT. OF N.C.T. OF DELHI & ANR. Respondent

Through Mr. Panna Lal Sharma, APP for State
with SI Rajeshwar PS Shahdara.
R2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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29.05.2018

CRL.M.A. 10597/2018 (exemption)

Exemption allowed subject to all just exceptions.

Application is disposed of.

CRL.M.C. 3007/2018

It is submitted on behalf of the petitioners that the petitioner no. 4 is bed ridden and the petitioners no. 5 is looking after the petitioner no. 3 & 4, who have to come from Amritsar.

The Investigating Officer present in the Court has identified the petitioners no. 1 & 2 and the proof of the identity of the petitioner no. 3 Bhupinder Singh w/o Sh. Mukhtar Singh, the petitioner no. 4 Surinder Kaur w/o Sh. Mukhtar Singh and the petitioner no. 5 Harjinder Kaur w/o Sh. Mukhtar Singh, who are not present, which are placed at pages 65, 67 & 69 of the petition as being the five accused arrayed in the FIR No. 605/15,

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registered at PS Shahdara, under Sections 498A/406/34 of the Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act. The Investigating Officer has also identified the respondent no. 2 as being the complainant of the said FIR. The Investigating Officer has also stated that there are no other persons arrayed as accused in the instant case. The proof of the identity of the petitioners no. 1 to 5 and of the respondent no. 2 in the form of photocopies of their Aadhar Cards originals of which have been produced by them are Ex.CW1/A and Ex. CW1/F respectively (originals of which have been seen and returned).

The respondent no. 2 in her deposition on oath has testified to having sworn her affidavit annexed to the petition as Ex.CW2/B which she has signed voluntarily of her own accord without any duress or coercion from any quarter. The respondent no. 2 has also testified to having signed the settlement at the Counselling Cell of the Principal Judge Family Courts, Karkardooma Courts, Shahdara, Delhi dated 04.12.2017, copy of which is on the record as Ex.CW2/A voluntarily of her own accord without any duress, pressure or coercion from any quarter. She has further stated that in terms of the settlement arrived at between her and the petitioners, a total sum of Rs.5.25 lakhs was to be paid to her and she has received a sum of Rs.3.25 lakhs previously from the petitioners and the balance sum of Rs.2 lakhs has been handed over to her vide Demand Draft No. 001013 dated 04.04.2018 for a sum of Rs.2 lakhs drawn on IDBI Bank in her favour, photocopy of which is on record as Ex.CW2/C. *Inter alia* she states that in terms of the settlement arrived at between her and the petitioners the minor

child born of the wedlock between her and the petitioner no. 1 is now in her custody and shall remain in her custody. The respondent no. 2 has also testified to the effect that in terms of the settlement, the marriage between her and the petitioner no.1 has since been dissolved vide the decree of divorce through mutual consent under Section 13 B(2) of the Hindu Marriage Act, 1955 vide decree dated 27.02.2017 in HMA No. 210/2018 of the Court of the Principal Judge Family Courts, Shahdara District, Karkardooma Courts, the copy of which is on record as Ex.CW2/D. She has further stated to the effect that she does not oppose the prayer made by the petitioners no. 1 to 5 in the petition seeking quashing of the FIR No. 605/15, registered at PS Shahdara, under Sections 498A/406/34 of the Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act nor she does want the petitioners to be punished in relation thereto and there are no claims of hers left against the petitioners.. She has further stated that she has studied till second year B.Com.

The learned APP for the State submits that in the circumstances of the case, 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.

On a consideration of the deposition of the respondent no.2, there appears no reason to disbelieve her statement that she has arrived at the settlement voluntarily of her own accord without any duress, coercion or pressure from any quarter and that she has arrived at settlement before the Counselling Cell before the Principal Judge Family Courts, Karkardooma Courts, Shahdara, Delhi dated 04.12.2017, which she has signed voluntarily

of her own accord without any duress, pressure or coercion from any quarter, and all the disputes between the petitioners and the respondent no. 2 have apparently been resolved and as the FIR in question has apparently been registered on the basis of a matrimonial discord which has since been dissolved vide the decree of divorce through mutual consent under Section 13 B(2) of the Hindu Marriage Act, 1955 vide decree dated 27.02.2017 in HMA No. 210/2018 of the Court of the Principal Judge Family Courts, Shahdara District, Karkardooma Courts, the copy of which is on record as Ex.CW2/D, thus to maintain peace and harmony between the parties and for the well being of the child born of the wedlock between the petitioner no. 1 and the respondent no. 2, it is considered essential to put *a quietus* to the litigation 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 considered appropriate to allow the prayer made by the petitioners seeking quashing of FIR No. 605/15, registered at PS Shahdara, under Sections 498A/406/34 of the Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act and all the consequential proceedings emanating therefrom against the petitioner. In view thereof, the FIR No. 605/15, registered at PS Shahdara, under Sections 498A/406/34 of the Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act and all the consequential proceedings emanating therefrom against the petitioner no. 1 Harpreet Singh s/o Sh. Mukhtar Singh, the petitioner no. 2 Mukhtar Singh s/o Late Sh. Daulat Singh, the petitioner no. 3 Bhupinder Singh w/o Sh. Mukhtar Singh, the petitioner no. 4 Surinder Kaur w/o Sh. Mukhtar Singh

and the petitioner no. 5 Harjinder Kaur w/o Sh. Mukhtar Singh are quashed.

The petition is disposed of.

Copy of the order be given *Dasti*, as prayed.

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Statement of CW1 : SI Rajeshwar PS Shahdara, Delhi.

ON S.A.

I identify the petitioner no. 1 Harpreet Singh s/o Sh. Mukhtar Singh, the petitioner no. 2 Mukhtar Singh s/o Late Sh. Daulat Singh present today in the Court and the proof of the identity of the petitioner no. 3 Bhupinder Singh w/o Sh. Mukhtar Singh, the petitioner no. 4 Surinder Kaur w/o Sh. Mukhtar Singh and the petitioner no. 5 Harjinder Kaur w/o Sh. Mukhtar Singh, who are not present, which are placed at pages 65, 67 & 69 of the petition as being the five accused arrayed in the FIR No. 605/15, registered at PS Shahdara, under Sections 498A/406/34 of the Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act. I also identify the respondent no. 2 Harvinder Kaur d/o Late Sardar Virender Singh present today in the court as being the complainant of the said FIR. The proof of the identity of the petitioners no. 1 to 5 and of the respondent no. 2 in the form of photocopies of their Aadhar Card originals of which have been produced by them are Ex.CW1/A and Ex. CW1/F respectively (originals seen and returned). There are no other persons arrayed as accused in the instant case.

**RO & AC
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ANU MALHOTRA, J

Statement of CW2 : Harvinder Kaur d/o Late Sardar Virender Singh, aged 26/27 years r/o 602/3, Loni Road, Kaboor Nagar, Shahdara, Delhi-32.

ON S.A.

I do not oppose the prayer made by the petitioners no. 1 to 5 in the petition seeking quashing of the FIR No. 605/15, registered at PS Shahdara, under Sections 498A/406/34 of the Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act nor I do want the petitioners to be punished in relation thereto in view of the settlement arrived at the Counselling Cell before the Principal Judge Family Courts, Karkardooma Courts, Shahdara, Delhi dated 04.12.2017, which bears my signatures thereon as visible at point-A on Ex.CW2/A, which I have signed voluntarily of my own accord without any duress, pressure or coercion from any quarter. My affidavit annexed to the petition bears my signatures thereon at points-A and B on Ex.CW2/B, which I have signed 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.5.25 lakhs was to be paid to me and I have received a sum of Rs.3.25 lakhs previously from the petitioners and the balance sum of Rs.2 lakhs has been handed over to me vide Demand Draft No. 001013 dated 04.04.2018 for a sum of Rs.2 lakhs drawn on IDBI Bank in my favour, photocopy of which is on record as Ex.CW2/C. Now there are no claims of mine left against the petitioners. In

view of the settlement arrived at between me and the petitioners the minor child born of the wedlock between me and the petitioner no. 1 is now in my custody and shall remain in my custody. In terms of the settlement arrived at me and the petitioners, the marriage between me and the petitioner no.1 has since been dissolved vide the decree of divorce through mutual consent under Section 13 B(2) of the Hindu Marriage Act, 1955 vide decree dated 27.02.2017 in HMA No. 210/2018 of the Court of the Principal Judge Family Courts, Shahdara District, Karkardooma Courts, the copy of which is on record as Ex.CW2/D. I have studied till second year B.Com. I have made this statement voluntarily of my own accord without any duress or coercion from any quarter.

RO & AC
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ANU MALHOTRA, J