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

+ **CRL.M.C. 2935/2018 & CRL.M.A. 10398/2018**

PANKAJ SINGH NEGI

..... Petitioner

Through Mr. Sharad Malhotra, Adv. with
petitioner in person.

versus

STATE (GOVT OF NCT OF DELHI) & ANR Respondent

Through Mr. Kamal Kr. Ghei, APP for State
with IO SI Sandeep Yadav, PS
Mehrauli.

R2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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28.05.2018

CRL.M.A. 10398/2018 (exemption)

Exemption allowed subject to all just exceptions.

Application is disposed of.

CRL.M.C. 2935/2018

Vide the present petition, the petitioner Pankaj Singh Negi s/o Sh. Surender Singh Negi seeks quashing of FIR No. 115/13, PS Mehrauli, under Sections 498A/406/34 of the Indian Penal Code, 1860 on the complaint of the respondent no. 2 i.e. the complainant thereof submitting to the effect that all disputes between the petitioner and the respondent no. 2 have been settled and that the petitioner and the respondent no. 2 are living together without any problems now.

The Investigating Officer has identified the petitioner Pankaj Singh

CRL.M.C. 2935/2018

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Negi s/o Sh. Surender Singh Negi as being the accused and the respondent no. 2 Ms. Vinita Negi w/o Sh. Pankaj Singh Negi present today in the court as being the complainant in relation to the FIR No. 115/13, PS Mehrauli, under Sections 498A/406/34 of the Indian Penal Code, 1860. *Inter alia* it has been submitted by the Investigating Officer that apart from the petitioner, all the other four persons named Mr. Surender Singh Negi, Smt. Sita Devi Negi, Ms. Seema Pawayia and Mr. Sudhir Pawaiya spouse of Ms. Seema Pawayia were put in column no. 12 in the charge-sheet and no cognizance was taken against them. Photocopies of the proof of identity of the petitioner and of the respondent no. 2 in the form of Aadhar Card and Election Identity Card are Ex. CW1/A to Ex. CW1/B respectively (original seen and returned).

The respondent no. 2 in her examination on oath by the Court has testified to having sworn her affidavit annexed to the petition as Ex.CW2/A which she has signed voluntarily of her own accord without any duress or coercion from any quarter. *Inter alia* she stated that she has been living with the petitioner no. 1 since May, 2013 separately from her in-laws and since the last one year, she has been living with the petitioner no. 1 along with her in-laws as well without any problems. She further submits that there are now no problems between her and the petitioners and she wants to live with the petitioner no. 1 and that there are two children of the wedlock with the petitioner no. 1 and that she is a graduate and she is teacher by profession.

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.

Taking into account the deposition of the respondent no. 2, which apparently indicates that there are now no disputes left between the parties and the petitioner and the respondent no. 2 are living together, thus to maintain peace and harmony between the parties and for the well being of their two children born of the wedlock, it is considered essential to put *a quietus* to the litigation 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)

it is considered appropriate to allow the prayer made by the petitioners seeking quashing of FIR No. 115/13, PS Mehrauli, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner. In view thereof, the FIR No. 115/13, PS Mehrauli, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner Pankaj Singh Negi s/o Sh. Surender Singh Negi are quashed.

The petition is disposed of.

ANU MALHOTRA, J

MAY 28, 2018/MK

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CRL.M.C. 2935/2018

PANKAJ SINGH NEGI versus STATE (GOVT OF NCT OF DELHI) &
ANR

Statement of CW1 : IO SI Sandeep Yadav, PS Mehrauli, Delhi.

ON S.A.

I identify the petitioner Pankaj Singh Negi s/o Sh. Surender Singh Negi as being the accused and the respondent no. 2 Ms. Vinita Negi w/o Sh. Pankaj Singh Negi present today in the court as being the complainant in relation to the FIR No. 115/13, PS Mehrauli, under Sections 498A/406/34 of the Indian Penal Code, 1860. There are five persons named in the FIR i.e. the petitioner, his father Mr. Surender Singh Negi, his mother Smt. Sita Devi Negi, his sister Ms. Seema Pawayia and Mr. Sudhir Pawaiya spouse of Ms. Seema Pawayia, however, apart from the petitioner, all the other four persons named Mr. Surender Singh Negi, Smt. Sita Devi Negi, Ms. Seema Pawayia and Mr. Sudhir Pawaiya spouse of Ms. Seema Pawayia were put in column no. 12 in the charge-sheet and no cognizance was taken against them. Photocopies of the proof of identity of the petitioner and of the respondent no. 2 in the form of Aadhar Card and Election Identity Card are Ex. CW1/A to Ex. CW1/B respectively (originals seen and returned).

**RO & AC
MAY 28, 2018/MK**

ANU MALHOTRA, J

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CRL.M.C. 2935/2018

PANKAJ SINGH NEGI versus STATE (GOVT OF NCT OF DELHI) &
ANR

Statement of CW2 : Ms. Vinita Negi w/o Sh. Pankaj Singh Negi, aged 39 years r/o 155D, Pocket-VI, MIG Flats, Mayur Vihar, Phase-III, New Delhi

ON S.A.

I do not oppose the prayer made by the petitioner in the petition seeking quashing of the FIR No. 115/13, PS Mehrauli, under Sections 498A/406/34 of the Indian Penal Code, 1860 nor I do want the petitioners to be punished in relation thereto as I have been living with the petitioners since May, 2018., 2013 separately from my in-laws and since the last one year, I have been living with the petitioner along with my in-laws as well. I have two children of the wedlock with the petitioner. There are now no problems between me and the petitioners and I want to live with the petitioner. My affidavit annexed to the petition bears my signature thereon at points-A and B on Ex.CW2/A, which I have signed voluntarily of my own accord without any duress, pressure or coercion from any quarter. I am a graduate and I am a teacher by profession.

**RO & AC
MAY 28, 2018/MK**

ANU MALHOTRA, J