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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 3018/2018 & CRL.M.A. 10620/2018**
AMIT BHATI & ORS Petitioner
Through Ms. Poonam Kalia, Adv. with P1 to
P5 in person.
versus

THE STATE & ANR Respondent
Through Mr. Izhar Ahmad, APP for State with
SI Ravindra Kumar PS Mandawali.
R2 in person with counsel Ms. Tripti,
Adv.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA
ORDER
% **29.05.2018**

CRL.M.A. 10620/2018 (exemption)

Exemption allowed subject to all just exceptions.

Application is disposed of.

CRL.M.C. 3018/2018

Learned counsel for the respondent no. 2 submits that her vakalatnama is on record.

Vide the present petition, the petitioner no. 1 Amit Bhati s/o Sh. Satender Bhati, the petitioner no. 2 Satender Bhati s/o Late Sh. Lakhmi Singh, the petitioner no. 3 Smt. Sheela Devi w/o Sh. Satender Bhati, the petitioner no. 4 Neeraj s/o Sh. Satender Bhati and the petitioner no. 5 Pooja d/o Sh. Satender Bhati seek quashing of FIR No. 488/13, registered at PS Mandawali, under Sections 498A/406/34 of the Indian Penal Code, 1860 on

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the complaint of the respondent no. 2 i.e. the complainant thereof submitting to the effect that all disputes between the petitioners and the respondent no.2 have been amicably resolved.

The Investigating Officer has identified the petitioners no. 1 to 5 as being the five accused of the seven accused named in the said FIR and he has testified that the persons named Ranjana Adhana and Satish Bhati have been put in column no. 12 in the said FIR and no cognizance has been taken against them. The Investigating Officer has also identified the respondent no. 2 Nisha Bhati d/o Sh. Jaibir Singh present today in the court as being the complainant of the said FIR. The proof of identity of the petitioners and of the respondent no. 2 have been produced in original, photocopies of which are Ex. CW1/A to Ex. CW1/F respectively (original of which have been seen and returned).

The respondent no. 2 in her deposition on oath has affirmed 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 the effect that the Delhi Mediation Centre, Karkardooma Courts, Delhi dated 21.07.2016 bears my signatures thereon as visible at point-A, the copy of the same is Ex.CW2/A, which I have signed voluntarily of her own accord without any duress or coercion from any quarter. The petitioner no. 1 has testified to the effect that all cases *interse* between the parties have been withdrawn. She has stated that she has been living with the petitioner no. 1 for last two years without any problems along with her child. It is also stated that she has

studied till standard 10th.

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 that she has arrived at the settlement voluntarily of her own accord without any duress, coercion or pressure from any quarter and that all the disputes between the petitioners and the respondent no. 2 have apparently been resolved in as much as the petitioner no. 1 and the respondent no. 2 are living together for the last two years, thus to maintain peace and harmony between the parties and for the well being of the child 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. 488/13, registered at PS Mandawali, 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. 488/13, registered at PS Mandawali, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners are quashed.

The petition is disposed of.

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Statement of CW1 : SI Ravindra Kumar PS Mandawali, Delhi.**ON S.A.**

I identify the petitioner no. 1 Amit Bhati s/o Sh. Satender Bhati, the petitioner no. 2 Satender Bhati s/o Late Sh. Lakhmi Singh, the petitioner no. 3 Smt. Sheela Devi w/o Sh. Satender Bhati, the petitioner no. 4 Neeraj s/o Sh. Satender Bhati and the petitioner no. 5 Pooja d/o Sh. Satender Bhati as being the accused in relation to the FIR No. 488/13, registered at PS Mandawali, under Sections 498A/406/34 of the Indian Penal Code, 1860. I also identify the respondent no. 2 Nisha Bhati d/o Sh. Jaibir Singh present today in the court as being the complainant of the said FIR. There are two more persons named Ranjana Adhana and Satish Bhati in the FIR, who have been put in column no. 12 and no cognizance is indicated to have been taken against them so far. The petitioner no. 1 and the respondent no. 2 are living together. The proof of the identity of the petitioners and of the respondent no. 2 in the form of photocopies produced by them are Ex.CW1/A and Ex. CW1/F respectively (originals seen and returned).

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Statement of CW2 : Smt. Nisha Bhati d/o Sh. Jaibir Singh w/o Amit Bhati, aged 29 years r/o E-569, West Vinod Nagar, Shanti Marg, Delhi (parental home), presently at 29-F, Mayur Vihar, Delhi and G-2028, Village Pilanji, Kotla Mubarakpur, Delhi (parental grand mother of the petitioner no. 1).

ON S.A.

I do not oppose the prayer made by the petitioners in the petition seeking quashing of the FIR No. 488/13, registered at PS Mandawali, under Sections 498A/406/34 of the Indian Penal Code, 1860 nor I do want the petitioners to be punished in relation thereto nor I do want any action against Ranjana Adhana and Satish Bhati named in the FIR by me nor I do want to be punished in relation thereto. In as much as I have been living with the petitioner no. 1 for last two years without any problems along with my child in view of the settlement arrived at the Delhi Mediation Centre, Karkardooma Courts, Delhi dated 21.07.2016, which bears my signatures thereon as visible at point-A on Ex.CW2/A. My affidavit annexed to the petition bears my signature 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. I have studied till standard 10th. 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