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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 3131/2018 & CRL.M.A. 10987/2018**

SANJAY TYAGI

..... Petitioner

Through: Petitioners in person with Mr. Ravin
Rao & Mr. Prashant Tomar,
Advocates.

versus

STATE

..... Respondent

Through: Mr. Izhar Ahmad, APP for State with
SI Shri Gopal, PS Shakarpur.
R-2 in person with Mr. Gaurav
Singhal, Advocate.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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31.05.2018

Vide the present petition, the petitioners seeks quashing of the FIR No.292/12, PS Shakarpur under Sections 498-A/406/506/325/34 of the Indian Penal Code, 1860 submitting to the effect that a settlement has been arrived at between the parties and there are no disputes left between the parties and the petitioner no. 1 and the respondent no. 2 are living together peacefully.

The Investigating Officer of the case present has identified the petitioner no. 1 Sanjay Tyagi, petitioner no. 2 Amit Tyagi and petitioner no. 3 Anju Tyagi as being three of the accused arrayed in the FIR No.292/12, PS Shakarpur under Sections 498-A/406/506/325/34 of the Indian Penal Code, 1860. He has also

identified the respondent no. 2, Ms. Anuradha Tyagi as being the complainant of the said FIR and has further stated that there are two other persons named in the FIR, i.e., the parents-in-law of the respondent no. 2 have since expired during the course of the investigation. The proofs of identify 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, 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 and has also testified to having signed the mediation settlement dated 26.07.2017 arrived at the Delhi Mediation Centre, KKD Courts Delhi, copy of which is on the record as Ex. CW2/B. She has further stated that there are now no disputes left between her and the petitioners and that she is living with the petitioner no. 1 peacefully at her matrimonial home for the last almost one year. The respondent no. 2 has further testified to the effect that there are two daughters and a son born out of the wedlock between her and the petitioner no. 1, who are also living with her and the petitioner no. 1 and she states that she wants to continue to live with the petitioner no. 1. She has further submitted that she does not oppose the prayer made by the petitioners seeking quashing of the FIR No.292/12, PS Shakarpur under Sections 498-A/406/506/325/34 of the Indian Penal Code, 1860 nor does she want them to be punished in relation thereto. She has further testified to the effect that she has studied till Standard 12th and she used to teach

earlier.

On behalf of the State, 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 and as the respondent no. 2 states she is living with the petitioner no. 1 without any problems now, for maintenance of peace and harmony between the petitioners and the respondent no. 2 to put a quietus to the litigation between the parties 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.292/12, PS Shakarpur under Sections 498-A/406/506/325/34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner no. 1 Sanjay Tyagi, petitioner no. 2 Amit Tyagi and petitioner no. 3 Anju Tyagi are quashed.

The petition is disposed of.

ANU MALHOTRA, J

MAY 31, 2018
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CRL.M.C. 3131/2018

SANJAY TYAGI

Vs. STATE & ANR

Statement of CW1 : SI Shri Gopal, PS Shakarpur.

ON S.A.

I identify the petitioner no. 1 Sanjay Tyagi, petitioner no. 2 Amit Tyagi and petitioner no. 3 Anju Tyagi as being three of the accused arrayed in the FIR No.292/12, PS Shakarpur under Sections 498-A/406/506/325/34 of the Indian Penal Code, 1860. I also identify the respondent no. 2, Ms. Anuradha Tyagi as being the complainant of the said FIR. The two other persons named in the FIR, i.e., the parents-in-law of the respondent no. 2 have since expired during the course of the investigation. The petitioner no. 1 and the respondent no. 2 are now living together. The proofs of identify 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. (Originals seen and returned.)

ANU MALHOTRA, J

RO & AC

MAY 31, 2018

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SANJAY TYAGI

Vs. STATE & ANR

Statement of CW2 : Ms. Anuradha Tyagi, w/o Sanjay Tyagi, d/o Sh.Baleshwar Tyagi, age 47 years, r/o 43, Gandhi Vihar, New Railway Station Hapur. (stated that H.No. 539/2, West Guru Angad Nagar, Gali no. 14, Laxmi Nagar, Delhi is my parental address.)

ON S.A.

My affidavit annexed to the petition bears my signatures at points A & B on Ex.CW2/A. Likewise, the mediation settlement dated 26.07.2017 arrived at the Delhi Mediation Centre, KKD Courts Delhi bears my signatures as visible thereon at point A on Ex. CW2/B. There are now no disputes left between me and the petitioners and I am living with the petitioner no. 1 peacefully at my matrimonial home for the last almost one year. There are two daughters and a son born out of the wedlock are also living with us. I want to continue to live with the petitioner no. 1.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.292/12, PS Shakarpur under Sections 498-A/406/506/325/34 of the Indian Penal Code, 1860 nor do I want them to be punished in relation thereto.

I have studied till Standard 12th and I used to teach earlier.

I have made this statement voluntarily of my own accord without any duress, coercion or pressure from any quarter.

ANU MALHOTRA, J

RO & AC

MAY 31, 2018