

\$~100

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

+ **CRL.M.C. 3065/2018 & CRL.M.A. 10791/2018**

SHRI PRADEP KUMAR & ORS Petitioner

Through: Petitioners in person with Mr. Niraj
Chaudhary, Advocate.

versus

THE STATE & ANR Respondent

Through: Mr. Hirein Sharma, APP for State
with ASI Kuldeep, PS Rajouri
Garden.

R-2 in person with Mr. Hari Parkash,
Adv for R-2.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

%

30.05.2018

Vide the present petition, the petitioners seek quashing of the FIR No. 759/14, PS Rajouri Garden under Sections 498-A/406/34 of the Indian Penal Code, 1860 submitting to the effect that a settlement has been arrived at between the parties and that all the disputes between the parties have been amicably resolved and that the marriage between the petitioner no. 1 and the respondent no. 2 has been dissolved by a decree of divorce through mutual consent under Section 13(B)(2) of the HMA vide a decree dated 18.04.2018 in HMA No. 1300/18.

The Investigating Officer of the case present in Court has identified the petitioner no. 1 Pradeep Kumar, petitioner no. 2 Kishan

Singh, petitioner no. 3 Prince, petitioner no. 4 Chandrawati, petitioner no. 5 Ramesh, petitioner no. 6 Kuntesh, petitioner no. 7 Sandeep, petitioner no. 8 Reena and petitioner no. 9 Sachin as being the nine accused arrayed in the FIR No. 759/14, PS Rajouri Garden under Sections 498-A/406/34 of the Indian Penal Code, 1860. He has also identified the respondent no. 2, Ms. Shobha as being the complainant of the said FIR. The proofs of identity of the petitioner nos. 1 to 9 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/J respectively, 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/B annexed to the petition and has also testified having signed the mediation settlement dated 05.03.2018 at point A on Ex.CW2/A and states that in terms of the settlement arrived at between her and the petitioner no. 1, a total sum of Rs. 5 lakhs was agreed to be paid to her by the petitioners which has been received by her in total. She has further testified to the effect that the marriage between her and the petitioner no. 1 has since been dissolved by a decree of divorce vide a decree dated 18.04.2018 in HMA No. 1300/18 of the Court of the Principal Judge, Family Courts (West), Tis Hazari Courts, Delhi and the certified copy of the said decree is on the record as Ex. CW2/C and states that there are now no claims of hers left against the petitioners. She further states that in terms of the settlement arrived at between her and the petitioners, the minor child born out of the wedlock between her and

the petitioner no. 1 is in her custody and shall continue to remain in her custody. She has further stated that she has studied till Standard 6th.

On behalf of the State, there is no opposition to the prayer made by the petitioner seeking quashing of the FIR in question in view of the resolution of all the disputes between the parties.

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, for maintenance of peace and harmony between the petitioners and the respondent no. 2, 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. 759/14, PS Rajouri Garden under Sections 498-A/406/34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner no. 1 Pradeep Kumar, petitioner no. 2 Kishan Singh, petitioner no. 3 Prince, petitioner no. 4 Chandrawati, petitioner no. 5 Ramesh, petitioner no. 6 Kuntesh, petitioner no. 7 Sandeep, petitioner no. 8 Reena and petitioner no. 9 Sachin are quashed.

The petition is disposed of.

ANU MALHOTRA, J

MAY 30, 2018
NC

100

CRL.M.C. 3065/2018

SHRI PRADEEP KUMAR & ORS.

Vs. STATE & ANR

Statement of CW1 : ASI Kuldeep, PS Rajouri Garden, Delhi.

ON S.A.

I identify the petitioner nos. 1 Pradeep Kumar, petitioner no. 2 Kishan Singh, petitioner no. 3 Prince, petitioner no. 4 Chandrawati, petitioner no. 5 Ramesh, petitioner no. 6 Kuntesh, petitioner no. 7 Sandeep, petitioner no. 8 Reena and petitioner no. 9 Sachin as being the nine accused arrayed in the FIR No. 759/14, PS Rajouri Garden under Sections 498-A/406/34 of the Indian Penal Code, 1860. I also identify the respondent no. 2, Ms. Shobha as being the complainant of the said FIR. The proofs of identify of the petitioner nos. 1 to 9 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/J respectively. (Originals seen and returned.)

ANU MALHOTRA, J

RO & AC

MAY 30, 2018

100

CRL.M.C. 3065/2018

SHRI PRADEEP KUMAR & ORS.

Vs. STATE & ANR

Statement of CW2 : Ms. Shobha, d/o Sh. Ramesh, age 29 years, r/o H. NO. 54, Vishal Enclave, near Rajouri Garden. (the address Vishal Enclave Rajouri Garden is the same place as Vishal Enclave Tagore Garden, WZ-54 A/40 as stated by the IO and as also indicate through Ex.CW1/J, i.e., the photocopy of the Aadhar Card of the respondent no. 2)

ON S.A.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No. 759/14, PS Rajouri Garden under Sections 498-A/406/34 of the Indian Penal Code, 1860 nor do I want them to be punished in relation thereto in as much a settlement has been arrived at between me and the petitioners on 05.03.2018 at the Delhi Mediation Centre, Tis Hazari Courts which bears my signatures thereon as visible at point A on Ex.CW2/A. My affidavit annexed to the petition bears my signatures at points A & B on Ex. CW2/B. In terms of the settlement arrived at between me and the petitioners, a total sum of Rs. 5 lakhs was agreed to be paid to me by the petitioners which has been received by me in total.

The marriage between me and the petitioner no. 1 has since been dissolved by a decree of divorce vide a decree dated 18.04.2018 in HMA No. 1300/18 of the Court of the Principal Judge, Family Courts (West), Tis Hazari Courts, Delhi and the certified copy of the said decree is on the record as Ex. CW2/C. There are now no claims of mine left against the

petitioners. In terms of the settlement arrived at between me and the petitioners, the minor child born out of the wedlock between me and the petitioner no. 1 is in my custody and shall continue to remain in my custody.

I have studied till Standard 6th.

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 30, 2018**