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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 3117/2018 & CRL.M.A. 10950/2018**

DHARAMVEER & ORS Petitioner
Through: Mr. Raj Kumar Chandiwal, Adv.

versus

STATE (GOVT OF NCT OF DELHI) & ANR Respondent
Through: APP for State with SI Karamvir, PS
Narela.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **31.05.2018**

Vide the present petition, the petitioner seeks quashing of FIR No.277/2016, registered at PS Narela, under Sections 498A/406/34 Indian Penal Code, 1860 submitting to the effect that all disputes between the parties have been amicably resolved and that the petitioner no.1 and the respondent no.2 are living together for the last two years without any problems now.

The Investigating Officer of the case present today in Court has identified the petitioner no.1 Shri Dharamveer, s/o late Shri Rajje, petitioner no.2 Smt. Rani, w/o late Shri Rajje, petitioner no.3 Shri Karamveer, s/o late Shri Rajje, petitioner no.4 Smt. Rekha, d/o late Shri Rajje as being the accused arrayed in FIR No.277/2016, registered at PS Narela, under Sections 498A/406/34 Indian Penal Code, 1860 and has also identified the respondent no.2 Ms. Deepali present today in Court as being the

complainant thereof. The proofs of identity of the petitioner nos. 1 to 3 and of the respondent no. 2 in the form of photocopies of their original documents produced by them, are on the record as Ex. CW1/A to Ex. CW1/E respectively. (Originals seen and returned.)

The respondent no.2 in her deposition on oath on examination by the Court has testified to having sworn her affidavit annexed to the petition as Ex.CW2/A voluntarily of her own accord without any duress or coercion from any quarter and affirmed the factum of her living with the petitioner no.1 along with petitioner nos. 2 and 3, her mother-in-law and brother-in-law respectively for the last two years and she has further stated that the petitioner no.4, her sister-in-law who had since married, lives at her matrimonial home. The respondent no.2 has further stated that there are now no problems with the petitioner for the last two years and she wants to continue to live with the petitioner no.1 and that there is one daughter born of the wedlock between her and the petitioner no.1 and thus she does not want the petitioner to be punished in relation to the FIR in question nor does she want the petitioners to be punished in relation thereto.

Learned APP for the State submits that in view of all disputes between them having been amicably settled, there is no opposition to the prayer made by the petitioner seeking quashing of the FIR in question.

In view of the deposition of the respondent no.2, there is no reason to disbelieve her statement that she has made her statement voluntarily of her own accord without any duress, coercion or pressure from any quarter and in view of her affidavit Ex.CW2/A annexed to the petition, it is considered appropriate to put a quietus to the litigation between the parties for

maintenance of peace and harmony between them and for the well being of the minor child born of the wedlock between her and the petitioner no.1, 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)

In view thereof the FIR No.277/2016, registered at PS Nrela, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners are quashed.

The petition is disposed of.

ANU MALHOTRA, J

MAY 31, 2018

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CRL.M.C. 3117/2018

DHARAMVEER & ORS

Vs. STATE (GOVT OF NCT OF DELHI) & ANR

Statement of CW1 : SI Karamvir , PS Narela, Delhi.

ON S.A.

I identify the petitioner no.1 Shri Dharamveer, s/o late Shri Rajje, petitioner no.2 Smt. Rani, w/o late Shri Rajje, petitioner no.3 Shri Karamveer, s/o late Shri Rajje, petitioner no.4 Smt.Rekha, d/o late Shri Rajje as being the accused arrayed in FIR No.277/2016, registered at PS Narela, under Sections 498A/406/34 Indian Penal Code, 1860. I also identify the respondent no.2 Ms. Deepali present today in Court as being the complainant thereof. The proofs of identity of the petitioner nos. 1 to 3 and of the respondent no. 2 in the form of photocopies of their original documents produced by them, are on the record as Ex. CW1/A to Ex. CW1/E respectively. (Originals seen and returned.)

The petitioner no.1 and the respondent no.2 are living together.

There are no other persons arrayed as accused in the said FIR.

ANU MALHOTRA, J

RO & AC

MAY 31, 2018

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CRL.M.C. 3117/2018

DHARAMVEER & ORS

Vs. STATE (GOVT OF NCT OF DELHI) & ANR

Statement of CW2 : Smt. Deepali, w/o Shri Dharamveer, d/o Shri Jagdish, aged 37 years, r/o p-330, Mohan Garden, Dwarka More, New Delhi.

ON S.A.

For the last two years, I am living with the petitioner no.1, her spouse and along with Smt. Rani, my mother-in-law, Shri Karamveer, my brother-in-law (i.e. Devar) and Ms. Rekha, my sister-in-law, is living at her matrimonial home.

My affidavit annexed to the petition bears my signature thereon at points-A & 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 not literate but I sign. I want to continue to live with the petitioner no.2 and I have no problems from any of the petitioners now for the last two years. I thus do not oppose the prayer made by the petitioners seeking quashing of the FIR No.277/2016, registered at PS Narela, under Sections 498A/406/34 Indian Penal Code, 1860 nor do I want the petitioners to be punished in relation thereto.

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

ANU MALHOTRA, J

RO & AC

MAY 31, 2018