

\$~65

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

+ **CRL.M.C. 3123/2018 & CRL.M.A. 10968/2018**

RAMCHANDER

..... Petitioner

Through: Mr. Randeep Pundir, Adv. with
petitioners.

versus

STATE & ANR

..... Respondent

Through: Mr. Sanjeev Sabharwal, APP for
State with Vijay Pal, PS CWC Nanak
Pura.
R-2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

%

31.05.2018

Vide the present petition, the petitioner seeks quashing of FIR No.97/2008, registered at PS CWC Nanak Pura, under Sections 498A/406 Indian Penal Code, 1860 submitting to the effect that the petitioner and the respondent no.2 have arrived at a settlement vide the mediation settlement dated 17.03.2017 pursuant to which the parties are living together without any disputes now.

The Investigating Officer of the case present today in Court has identified the petitioner Shri Ramchander, s/o Shri Dhani Ram as being the sole accused against whom the charges of allegations have been framed for the alleged commission of offences punishable under Sections 498A/406 Indian Penal Code, 1860. The IO has further stated that the parents-in-law of the respondent no.2 were not charge-sheeted. The IO has also identified the

respondent no.2 Ms. Rita present today in Court as being the complainant thereof. The proofs of identity of the petitioner and of the respondent no. 2 in the form of photocopies of their Aadhar Cards are on the record as Ex. CW1/A & Ex. CW1/B respectively, originals of which have been seen and returned.

The respondent no.2 in her examination on oath by the Court has affirmed the factum of settlement arrived at between her and the petitioner and she has further stated that she is living with the petitioner since 17.03.2017 pursuant to the mediation settlement arrived at Mediation Centre, Dwarka Courts, Delhi, copy of which is on the record as Ex. CW2/A with her signature as visible thereon. She has also affirmed having sworn her affidavit annexed to the petition as Ex.CW2/B. She has also stated that in terms of the said settlement, she is receiving an amount of Rs.8,000/- per month from the petitioner and that the non-payment of the said amount has been the cause of the quarrel between them. She has further stated that there are no problems now between her and the petitioner and that she wants to continue to live with the petitioner and that she has four children born of the wedlock between her and the petitioner. She has also stated that she has studied upto standard 10th.

Learned APP for the State submits that in view of the settlement arrived at between the parties, 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

that the FIR in question has been registered pursuant to a matrimonial discord which has since been resolved between the petitioner and the respondent no.2 and that they are living together for the last one year as stated by the respondent no.2 and taking into account the non-opposition on behalf of the State, it is considered appropriate to put a quietus to the litigation between the parties for maintenance of peace and harmony 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)

In view thereof the FIR No.97/2008, registered at PS CWC Nanak Pura, under Sections 498A/406 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner are quashed.

The petition is disposed of.

ANU MALHOTRA, J

MAY 31, 2018

vm

65

CRL.M.C. 3123/2018

RAMCHANDER

Vs. STATE & ANR

Statement of CW1 : SI Vijay Pal, PS CWC Nanak Pura, Delhi.

ON S.A.

I identify the petitioner Shri Ramchander, s/o Shri Dhani Ram as being the sole accused arrayed in FIR No.97/2008, registered at PS CWC Nanak Pura, under Sections 498A/406 Indian Penal Code, 1860. I also identify the respondent no.2 Ms. Rita present today in Court as being the complainant thereof. The parents-in-law of the complainant had not been charge-sheeted. The proofs of identity of the petitioner and of the respondent no. 2 in the form of photocopies of their Aadhar Cards are on the record as Ex. CW1/A & Ex. CW1/B respectively. (Originals seen and returned.)

There is no other person arrayed as accused in the said FIR.

ANU MALHOTRA, J

RO & AC

MAY 31, 2018

65

CRL.M.C. 3123/2018

RAMCHANDER

Vs. STATE & ANR

Statement of CW2 : Smt.Rita, w/o Shri Ramchander, aged 45 years, r/o C-17, Guru Ram Das Nagar, Laxmi Nagar, Shakarpur, New Delhi.

ON S.A.

I do not oppose the prayer made by the petitioner seeking quashing of the FIR No.97/2008, registered at PS CWC Nanak Pura, under Sections 498A/406 Indian Penal Code, 1860 nor do I want the petitioner to be punished in relation thereto inasmuch as I am living with the petitioner since the time of the Mediation Settlement dated 17.03.2017 arrived at Mediation Centre, Dwarka Courts, copy of which mediation proceedings bears my signature thereon as visible at point-A on Ex. CW2/A. My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/B. In terms of the said settlement, I have received an amount of Rs.8,000/- per month from the petitioner. The quarrel has taken place because this payment is not being made. There are no problems now between me and the petitioner and I want to continue to live with the petitioner. I have four children born of the wedlock between me and the petitioner.

I have studied upto standard 10th.

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

