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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 3125/2018**

SANDEEP & ORS Petitioners

Through: Mr.Shiv Kumar, Advocate

versus

THE STATE & ANR Respondents

Through: Mr. Kamal Kr. Ghei, APP for State
with ASI Hawa Singh, PS Nihal
Vihar.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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31.05.2018

Vide the present petition, the petitioners seek quashing of the FIR No.149/2016 under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Nihal Vihar submitting to the effect that a settlement has been arrived at between the parties and that the respondent No.1 and the respondent No.2 are living together and all the disputes between them have been resolved.

The Investigating Officer is present and has identified the petitioners as being the accused and the respondent No.2 as being the complainant in relation to FIR No.149/2016 under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Nihal Vihar and further testified that the petitioner No.1 and the respondent No.2 are living together.

The respondent No.2 in her examination on oath by the Court

testified to the effect that a settlement has been arrived between her and the petitioners and that she is living with the petitioners. She further states that the petitioner No.4 has since been married and living in her matrimonial home and that the complainant has been living with the petitioners for the last two years without any problem and that she has been receiving a sum of Rs.1000/- per month in terms of the settlement agreement dated 5.8.2016 Ex.CW-2/B. She also states that she wants to continue to live with the petitioner No.1. She has stated that she is studying in B.A III year.

Learned APP for the State also, in the facts and circumstances, does not oppose the prayer made by the petitioners seeking quashing of the FIR No.149/2016 under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Nihal Vihar and that she has arrived at a settlement with the petitioners No.1 to 4 *namely*, Sandeep, Vijay Kumar, Nayan Wati and Sunita, petitioner No.4 since been married.

In view of the statement made by the respondent No.2 and the record, there appears no reason to disbelieve the statement made by the respondent No.2 that she has arrived at a settlement with the petitioners voluntarily of her own accord without any duress, coercion or pressure from any quarter and that she does not seek the continuance of the FIR against the petitioners and the FIR as apparently is indicated to have been registered due to a matrimonial discord which has since been resolved and for maintenance of peace and harmony 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 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 in the interest of justice to put a quietus to the litigation between the parties so that peace and harmony between them is restored. In view thereof the FIR No.149/2016 under Sections

498A/406/34 Indian Penal Code, 1860, Police Station Nihal Vihar and all consequential proceedings emanating therefrom against the petitioners are thus quashed.

The petition is disposed of.

ANU MALHOTRA, J

MAY 31, 2018/sv

IN THE HIGH COURT OF DELHI: NEW DELHI

Item No. 66

CrI. M.C. 3125/2018

SANDEEP & ORS. Vs. STATE & ANR.

**CW-1 ASI HAWA SINGH POLICE STATION NIHAL VIHAR
ON S.A.**

I identify the petitioners No.1 to 4, *namely*, Sandeep, Vijay Kumar Nayan Wati and Sunita as being the accused and the respondent No.2 as being the complainant of FIR No.149/2016 under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Nihal Vihar present in the Court today. The identities of the petitioners No. 1 to 4 and the respondent No.2 in the form of original Aadhaar Cards have been produced, the photocopies of the same qua the petitioners No.1 to 4 and respondent No.2 are EX.CW-1/A to Ex.CW-1/E respectively (Originals seen & returned.).

**RO & AC
31.05.2018.**

ANU MALHOTRA, J

IN THE HIGH COURT OF DELHI: NEW DELHI

Item No. 66

CrI. M.C. 3125/2018

SANDEEP & ORS. Vs. STATE & ANR.

**CW-2 JYOTI W/O SANDEEP KUMAR AGED 23 YEARS, R/O B-280,
GAURI SHANKAR ENCLAVE, PREM NAGAR DELHI.
ON S.A.**

I am studying in B.A.-III year.

I do not seek continuation of proceedings in relation to FIR No.149/2016 under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Nihal Vihar, against the petitioners No.1 to 4, *namely*, Sandeep, Vijay Kumar Nayan Wati and Sunita, nor do I want them to be punished in relation thereto in as much as I am living with petitioner No.1 for the last two years without any problems. and I want to continue with the petitioner No.1. I have a child aged six years born out of the wedlock between me and the petitioner No.1 and want to live with the petitioners together.

My affidavit annexed to the petition bears my signatures thereon at point A & B on Ex.CW-2/A which I have signed voluntarily of my own accord without any duress pressure or coercion from any quarter. The settlement document dated 5.8.2016 bears my signatures at point A on Ex.CW-2/B. In terms of Clause 3 of the mediation settlement, I am receiving a sum of Rs.1000/- towards my personal expenses from the petitioner No.1. I have made my statement voluntarily of my own accord without any duress, pressure or coercion from any quarter.

**RO & AC
31.05.2018.**

ANU MALHOTRA, J

