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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 2757/2015
SANJEEV KUMAR Petitioner
Through: Mr. Lokesh Kumar, Adv.

versus

STATE & ORS Respondent
Through: Mr. Raghuvinder Varma, APP for
State with SI Vijay Kumar, PS Farsh
Bazar.
Mr. Vijendra Kumar, Adv. for R-2
with R-2.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **10.05.2018**

Vide the present petition, the petitioner sought quashing of FIR No.841/2014, PS Farsh Bazar, under Sections 468/471 Indian Penal Code, 1860 seeking quashing thereof on merits.

During the pendency of the present proceedings, it has been submitted through the application presently under consideration CrI.M.A. 16982/2016 i.e. a joint application filed by the petitioner and by the respondent no.2 i.e. the complainant of the FIR No.841/2014, PS Farsh Bazar, registered under Sections 468/471 Indian Penal Code, 1860 that the matter between the petitioner and the respondent no.2 herein during the course of the proceedings in CrI. Rev. P. 461/2012 vide order of this Court dated 28.07.2016 with consent of the parties had been referred to the Delhi High

Court Mediation and Conciliation Centre and that pursuant thereto a settlement has been arrived at between the parties on 09.08.2016 whereby all disputes between the parties were settled. During the course of the proceedings in the present petition, a submission was made on 24.01.2018 that the proceedings under Section 13(B)(2) of HMA, 1955 in HMA No.211/2017 of the Court of the Judge, Family Court, Shahdara, New Delhi were scheduled for 08.02.2018 and the petitioner has submitted on record the certified copy of the decree sheet dated 08.02.2018 in HMA No.211/2017 of the Court of the Judge, Family Court (Shahdara District), KKD Courts, Delhi between the petitioner herein and the respondent no.2 herein indicating dissolution of the marriage between the petitioner and the respondent no.2 vide a decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955, as avert.

The Investigating Officer of the case present today in Court has identified the petitioner Shri Sanjeev Kumar, s/o Shri Mange Ram as being the sole accused of the said FIR and has also identified the respondent no.2 Ms. Chanchal present today in Court as being the complainant thereof. The petitioner and the respondent no.2 have produced their original Aadhar Cards. Photocopy of the Aadhar Card of the petitioner is on the record as Ex. CW1/A. Copy of the Aadhar Card of the respondent no.2 be placed on record. (Originals seen and returned)

It is brought forth through the submissions made on behalf of the petitioner and the respondent no.2 and the State, that all disputes between the petitioner and the respondent no.2 which had caused the registration of the FIR in question, are matrimonial, which matrimonial discord has

apparently been dissolved vide dissolution of marriage between the petitioner and the respondent no.2 vide the decree of divorce through mutual consent as adverted to hereinabove.

The respondent no.2 has been examined on oath by the Court and has testified to the effect that she has done M.Sc., B.Ed. and she is a house wife and that she wants the matters to end and that she has signed the joint application dated 25.10.2016 i.e. CrI.M.A. 16981/2016 in the present petition CrI.M.C.2757/2015 as Ex.CW2/A and likewise has signed the affidavit as Ex.CW2/B and the settlement arrived at the Delhi High Court Mediation and Conciliation Centre on 09.08.2016 as Ex. CW2/C, all voluntarily of her own accord without any duress or coercion from any quarter and she has further testified to the effect that the marriage between her and the petitioner no.1 has been dissolved vide decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 08.02.2018 of the Court of the Judge, Family Court, Shahdra, New Delhi in HMA No.211/2017, certified copy of which is on the record as Ex. CW2/D and that there are two children named Piyush and Nakul born of the wedlock between her and the petitioner. She has further stated that in terms of the said settlement arrived at between her and the petitioner, a total sum of Rs.20 lakhs was to be paid to her by the petitioner, of which a sum of Rs.7 lakhs has been received by her previously and the sum of Rs.5 lakhs in the form of two FDRs of Rs.2.50 each in the name of her two minor children named Piyush and Nakul who are in her custody, has been received by her today from the petitioners. Copies of the said FDRs are on the record as Ex.CW2/E & CW2/F and the balance sum of Rs. 8 lakhs

is to be received by her, as testified by the respondent no.2 at the time of quashing of FIR No.154/2011, PS Madhu Vihar, under Sections 498A/406/34 Indian Penal Code, 1860. She has further stated that the two minor children born of the wedlock between her and the petitioner are in her custody and will continue to remain in her custody in view of the settlement arrived at between her and the petitioner and that she does not oppose the prayer made by the petitioner seeking quashing of the FIR i.e. FIR 841/2014, PS Farsh Bazar nor does she want the petitioner to be punished in relation thereto.

The learned APP for the State submits that in the circumstances of the case, there is no opposition to the prayer made by the petitioner seeking quashing of the FIR in question.

The nature of offences in relation to the FIR No.841/2014, PS Farsh Bazar, under Sections 468/471 Indian Penal Code, 1860 of which quashing is sought, are undoubtedly grave. It cannot however be overlooked that the said FIR is an aftermath of a matrimonial discord which as observed hereinabove, has already been dissolved vide dissolution of the marriage between the petitioner and the respondent no.2 vide a decree of divorce through mutual consent. Furthermore, there is no other person other than the petitioner or the respondent no.2 to the present petition involved qua the alleged commission of the offences punishable under Section 468/471 Indian Penal Code, 1860.

Further, there appears no reason to disbelieve the statement of the respondent no.2 as she is apparently well educated and has done her Masters in Science and has done her B.Ed. and it is apparent therefrom that she can

understand the implications of the statement that she has made. Taking the totality of the circumstances of the case into account, for the well being of the two minor children born of the wedlock between the respondent no.2 and the petitioner, it is considered appropriate 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)

As the matter related apparently only to a matrimonial discord, in view thereof the FIR No.841/2014, PS Farsh Bazar, under Sections 468/471 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner are quashed. The Crl M.A. 16981/2016 is thus allowed and the petition is disposed of accordingly.

ANU MALHOTRA, J

MAY 10, 2018

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SANJEEV KUMAR

Vs. STATE & ORS

Statement of CW1 : SI Vijay Kumar Baliyan , PS Farsh Bazar, Delhi.

ON S.A.

I am the Investigating Officer of FIR No.841/2014, PS Farsh Bazar, under Sections 468/471 Indian Penal Code, 1860. I identify the petitioner Shri Sanjeev Kumar, s/o Shri Mange Ram as being the sole accused of the said FIR. I also identify the respondent no.2 Ms. Chanchal present today in Court as being the complainant thereof. The petitioner and the respondent no.2 have produced their original Aadhar Cards. Photocopy of the Aadhar Cards of the petitioner is on the record as Ex. CW1/A. Copy of the Aadhar Card of the respondent no.2 be placed on record. (Originals seen and returned.)

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

ANU MALHOTRA, J

RO & AC

MAY 10, 2018

Statement of CW2 : Smt.Chanchal, d/o Shri Kamal Singh, aged 38 years, r/o E-29, Flat No.202, Gali No.17, Madhu Vihar, Patpar Ganj, New Delhi.

ON S.A.

I have done M.Sc., B.Ed. and I am a house wife. I want to get out of these matters. The joint application dated 25.10.2016 accompanying with Crl.M.A. 16982/2016 in the present petition Crl.M.C.2757/2015 bears my signature thereon at points-A on Ex.CW2/A. My affidavit in support of the averments made in the petition bears my signature thereon at points-A & B on Ex.CW2/B. A settlement has been arrived at between me and the petitioner at the Delhi High Court Mediation and Conciliation Centre on 09.08.2016 and the copy of the said settlement document bears my signature thereon on each page thereof as also visible at the last page thereon at point-A on Ex. CW2/C. I have signed all these documents voluntarily of my own accord without any duress, pressure or coercion from any quarter.

In terms of the said settlement arrived at between me and the petitioner, the marriage between me and the petitioner no.1 has been dissolved vide decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 08.02.2018 of the Court of the Judge, Family Court, Shahdra, New Delhi in HMA No.211/2017, certified copy of which is on the record as Ex. CW2/D. There are two children named Piyush and Nakul born of the wedlock between me

and the petitioner

In terms of the said settlement arrived at between me and the petitioner, a total sum of Rs.20 lakhs was to be paid to me by the petitioners, of which a sum of Rs.7 lakhs has been received by me previously and the sum of Rs.5 lakhs in the form of two FDRs of Rs.2.50 each in the name of my two minor children named Piyush and Nakul who are in my custody, have been received by me today from the petitioners, copies of the said FDRs are on the record as Ex.CW2/E & CW2/F and the balance sum of Rs. 8 lakhs is to be received by me, which is to be received at the time of quashing of FIR No.154/2011, PS Madhu Vihar, under Sections 498A/406/34 Indian Penal Code, 1860.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.841/2014, PS Farsh Bazar, under Sections 468/471 Indian Penal Code, 1860 nor do I want the petitioner 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 10, 2018**