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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 4573/2017
PALVINDER SINGH & ORS Petitioner
Through: Mr. Sanjay Budhiraj, Adv.

versus

STATE GOVT OF NCT OF DELHI & ANR Respondent
Through: Mr. Panna Lal Sharma, APP for State
with SI Vijay Kumar, PS Farsh Bazar.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
17.01.2018

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Vide proceedings dated 08.01.2018, the State was directed to submit verification report of the identities of the respondent nos. 2 to 4 which verification report has been submitted vide the status report dated 16.01.2018 of the SHO, PS Nand Nagri. The proofs of identity of the said petitioners have been submitted along with the said status report as Ex. CW1/A to CW1/C respectively.

Vide the present petition, the petitioner no.1 Shri Palvinder Singh, s/o late Shri Sukhwant Singh, petitioner no.2 Shri Harjeet @ Joni, s/o late Shri Sukhwant Singh, petitioner no. 3 Smt. Kulwant Kaur, w/o late Shri Sukhwant Singh and petitioner no.4 Mrs. Manjeet Kau @ Baby, d/o late Shri Sukhwant Singh seek quashing of the FIR No.06/2003, registered at PS Farsh Bazar, under Sections 498A/406 Indian Penal Code, 1860 submitting *inter alia* to the effect that a settlement has been arrived at between respondent no.2 and the petitioners and that the matrimonial discord

between the petitioner no.1 and the respondent no.2 has been resolved vide the decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 in HMA No. 664/13 vide decree of divorce dated 30.10.2013 of the Court of ADJ, Shahdra District, KKD Courts, New Delhi, photocopy of which is on the record as Ex. CW2/D

Learned APP for the State in the circumstances does not oppose the prayer made by the petitioner.

The respondent no.2 had already been examined on oath by the Court on 08.01.2018 and has testified to the effect that she does not oppose the prayer made by the petitioner seeking quashing of the FIR No.06/2003, registered at PS Farsh Bazar, under Sections 498A/406 Indian Penal Code, 1860 and that there are no claims of hers left against the petitioners and that the marriage between her and the petitioner no.1 has been dissolved vide the decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 in HMA No. 664/13 vide decree of divorce dated 30.10.2013 of the Court of ADJ, Shahdra District, KKD Courts, New Delhi photocopy of which is on the record as Ex. CW2/D and that pursuant to the settlement arrived at between her and the petitioners, the adult child born of the wedlock is in her custody and shall continue to remain in her custody.

She has testified to the effect that she has signed the settlement agreement dated 18.08.2012 arrived at Delhi Mediation Centre, KKD Courts, Delhi Ex. CW2/C and the affidavit annexed to the petition as Ex.CW2/B voluntarily of her own accord and without any duress, coercion or pressure from any quarter. She has also stated that she does not want the petitioners to be punished in relation thereto

It has also been submitted by the Investigating Officer on 08.01.2018

that apart from the petitioner nos. 1 to 4 there are no other persons arrayed as accused in relation to the said FIR.

Learned APP for the State in the circumstances of the case does not oppose the prayer made by the petitioner seeking quashing of the FIR in question

Taking into account the statement made by the respondent no.2, there appears no reason to disbelieve her statement that she has arrived at a settlement with the petitioner no. 1 voluntarily of her own accord and without any duress, coercion or pressure from any quarter and that there are no claims of hers left against the petitioners and that she does not oppose the prayer made by the petitioner seeking quashing of FIR in question, as apparently appears the FIR in question emanates from the matrimonial discord between the petitioner no.1 and the respondent no.2 which matrimonial discord has since been resolved vide the decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 in HMA No. 664/13 vide decree of divorce dated 30.10.2013 of the Court of ADJ, Shahdra District, KKD Courts, New Delhi photocopy of which is on the record as Ex. CW2/D, in view of 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 for maintenance of peace and harmony between the petitioners and the respondent no.2 that the FIR No.06/2003, registered at PS Farsh Bazar, under Sections 498A/406 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioner nos. 1 to 4 are quashed, which are thus accordingly quashed.

The petition is disposed of.

ANU MALHOTRA, J

JANUARY 17, 2018/vm

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

(Further examination in continuation to proceedings dated 08.01.2018)

ON S.A.

I verify the identity of the petitioner no.2 Shri Harjeet @ Joni, s/o late Shri Sukhwant Singh, petitioner no. 3 Smt. Kulwant Kaur, w/o late Shri Sukhwant Singh and petitioner no.4 Mrs. Manjeet Kau @ Baby, d/o late Shri Sukhwant Singh arrayed as accused in FIR No.06/2003, registered at PS Farsh Bazar, under Sections 498A/406 Indian Penal Code, 1860.

The proofs of identity of the said petitioners are annexed to the status report dated 16.01.2018 as Ex. CW1/A to CW1/C respectively (originals seen and returned).

The petitioner no.3 Smt. Kulwant Kaur, is unable to move from bed and the petitioner no.4 Smt. Manjeet Kuar is suffering from paralysis .

Apart from the petitioner nos. 1 to 4 there are no other persons arrayed as accused in the said FIR.

ANU MALHOTRA, J

RO & AC

JANUARY 17, 2018