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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 4572/2017 & CRL.M.A. 18219/2017**

SANDEEP KUMAR & ORS Petitioner
Through: Mr. Juned Alam, Adv. with petitioner
No.1

versus

THE STATE (DELHI ADMIN) DELHI & ANR Respondent
Through: Mr. Kamal Kr. Ghei, APP for State
with ASI Devender Kr., PS Uttam
Nagar.
Ms. Poonam, Adv. for R-2, with R-2.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
23.02.2018

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Vide the proceedings dated 01.12.2017, the presence of the petitioners no.1-3 for the next date of hearing has been exempted which was indicated to be listed for 20.12.2017 and 22.02.2018 when the matter could not be taken up, and has thus been taken up today.

Vide the present petition, the petitioner seeks quashing of FIR No.823/14, registered at PS Uttam Nagar, under Sections 498A/406 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom submitting to the effect that a settlement has been arrived at between the parties and that the marriage between the petitioner no.1 and the respondent no.2 has been dissolved vide the decree of divorce through mutual consent.

SI Anup Rana, the Investigating Officer of the case was present on the date 1.12.2017, when his statement had been recorded wherein he had identified the petitioner Nos.1 to 8 and had also the respondent No.2

The proof of identity of the petitioners and of the respondent no.2 are on the record as Ex. CW1/A to CW1/G and Ex. CW2/A. The certified copy of the General Power of Attorney in favour of the Paramjit Kaur, the wife of Kuldeep Singh on the record was also identified as Ex. CW1/H as attested by Assistant Consular Officer, Embassy of India, Warsaw.

The respondent no.2 in her testimony on oath by the Court on 01.12.2017 has testified to having sworn her affidavit annexed to the petition as Ex.CW2/A and has further testified to the effect that she has also signed the mediation settlement dated 27.02.2017 arrived at between the petitioners and herself voluntarily of her own accord without any duress or coercion from any quarter. The respondent no.2 has further testified to the effect that pursuant to the said settlement, she has received a total sum of Rs. 4.5 lacs from the petitioners and that the minor child Ms. Ekam born of the wedlock between her and the petitioner no.1 is in the custody of the petitioner no.1 and she has no opposition if the minor child continue to live with the petitioner no.1. She has further testified to the effect that the marriage between her and the petitioner no.1 has been dissolved on 18.11.2017 and in terms of directions dated 01.12.2017, a certified copy of the decree of divorce dated 18.11.2017 in HMA No. 245/17 of the Court of learned Addl. District Judge, Chandigarh has been placed on record brining forth the dissolution of marriage between the petitioner no.1 and the respondent no.2. The respondent no.2 in reply to a specific Court query affirmed and reiterated her statement dated 01.12.2017 to the effect that she does not oppose the prayer made by the petitioners seeking quashing of the FIR in

In reply to a specific Court query, the respondent no.2 stated that she

has studied upto standard 12th and reiterated in reply to a specific Court

query that she does not oppose the prayer made by the petitioner seeking quashing of FIR in question voluntarily of her own accord without any duress, coercion or pressure from any quarter.

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 testimony of the respondent no.2 as recorded on 01.12.2017 and the submissions made by her today and the factum of the dissolution of the marriage between the petitioner no.1 and the respondent no.2 vide the decree dated 18.11.2017 of the Court of ADJ, Chandigarh in HMA No. 245/17, the matrimonial discord between the petitioner no.1 and the respondent no.2 having been resolved and taking into account the non-opposition on behalf of the State for maintenance of peace and harmony between the petitioners and the respondent no.2, it is considered appropriate to put a quietus to the litigation, 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)

the FIR No.823/14, registered at PS Uttam Nagar, under Sections 498A/406 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner nos. 1 to 8 are quashed.

ANU MALHOTRA, J

FEBRUARY 23, 2018

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