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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 4730/2017**
DEEPAK TOKAS & ORS Petitioner

Through: Mr. Arun Saxena, Adv.

versus

THE STATE GOVT OF NCT OF DELHI & ANR..... Respondent
Through: Mr. Panna Lal Sharma, APP for State
with ASI Aman Kumar, PS
CWC/Nanak Pura.
Ms. Pooja Chhabra, Adv. for R-2.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
26.02.2018

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Vide the present petition, the petitioner seeks quashing of FIR No.126/2010, registered at PS CWC, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom submitting to the effect that a settlement has been arrived at between the parties whereby the marriage between the petitioner no.1 and the respondent no.2 has since been dissolved vide decree of divorce through mutual consent and all disputes between the parties have been settled.

The Investigating Officer of the case present today in Court has identified the petitioner no. 1 Shri Deepak Kumar Tokas, s/o Shri Rishi Kumar Tokas, petitioner no.2 Shri Rishi Kumar Tokas, petitioner no.3 Mrs. Bimla Devi, w/o Shri Rishi Kumar Tokas as being the accused arrayed in FIR No.126/2010, registered at PS CWC, under Sections 498A/406/34 Indian

Penal Code, 1860 and also identified the respondent no.2 Ms. Anjana Sejwal

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present today in Court as being the complainant thereof. The proofs of identity of the petitioner nos. 1 to 3 and of the respondent no. 2 in the form of photocopies of their Aadhar Cards are on the record as Ex. CW1/A and Ex. CW1/D respectively. (Originals seen and returned.)

The respondent no.2 in her testimony on oath by the Court has testified to having sworn her affidavit annexed to the petition as Ex.CW2/A and has further testified to the effect that the marriage between her and the petitioner no.1 has since been dissolved vide a decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 07.09.2017 of the Court of the Principal Judge, Family Courts, South, Saket Courts, New Delhi in HMA No. 1006/17, copy of which is on the record as Ex. CW2/B. The respondent no.2 has further testified to the effect that in terms of the said settlement arrived at between her and the petitioners, the minor child born of the wedlock between her and the petitioner no.1 is in her custody and shall continue to live in her custody. She has further testified to the effect that pursuant to the settlement arrived at between her and the petitioners, a total sum of Rs. 19 lakh was to be paid to her by the petitioners, of which a sum of Rs. 15 lakh has been received by her previously and the balance sum of Rs. 4 lakh has been handed over to her by the petitioner today in Court in the form of a Demand Draft bearing no. 333105 dated 22.02.2018 in her favour drawn on the Union Bank of India and that there are no claims of hers left against the petitioners now and that she does not oppose the prayer made by the petitioners seeking quashing of the FIR in question and does not want the petitioners to be punished in relation thereto. *Inter alia* the

respondent no.2 has testified to the effect that she has a diploma in Computer Science and presently works as an Administrative Officer with Youth Hostel

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Association. She has further testified to the effect that she has made her statement voluntarily of her own accord without any duress, coercion or pressure from any quarter. It has been submitted on behalf of the respondent no.2 that the submissions made on 20.12.2017 to the effect that a sum of Rs. 14 lacs has been paid to the respondent no.2 were erroneous and that would have been Rs. 15 lacs out of total sum of Rs. 19 lacs which has been received by the respondent no.2 and the proceedings under Section 13(B)(2) of the Hindu Marriage Act, 1955 also indicates that Rs. 15 lacs had been paid to the respondent no.2 already which is also observed in the judgment dated 07.09.2017 in HMA No. 1006/2017 of the Court of the Principal Judge, Family Courts, South, Saket, New Delhi.

Learned APP for the State submits that in view of the testimony of the respondent no.2 and 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 being 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, dissolution of marriage between the petitioner no.1 and the respondent no.2 vide the decree of divorce through mutual consent as indicated hereinabove and the factum that the respondent no.2 is well educated and understands the impact of the statement made by her and as apparently she has made the same

voluntarily without any coercion from any quarter and taking into account the non-opposition on behalf of the State, 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
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*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

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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)

for maintenance of peace and harmony between the petitioners and the respondent no.2, it is considered appropriate to allow the prayer made by the

petitioners seeking quashing of FIR No.126/2010, registered at PS CWC, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners.

In view thereof the FIR No.126/2010, registered at PS CWC, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner no. 1 Shri Deepak Kumar Tokas, s/o Shri Rishi Kumar Tokas, petitioner no.2 Shri Rishi Kumar

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Tokas, petitioner no.3 Mrs. Bimla Devi, w/o Shri Rishi Kumar Tokas are quashed.

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DEEPAK TOKAS & ORS

Vs. THE STATE GOVT OF NCT OF DELHI & ANR.

Statement of CW1 : ASI Aman Kumar, PS CWC Nanak Pura, Delhi.

ON S.A.

I identify the petitioner no. 1 Shri Deepak Kumar Tokas, s/o Shri Rishi Kumar Tokas, petitioner no.2 Shri Rishi Kumar Tokas, petitioner no.3 Mrs. Bimla Devi, w/o Shri Rishi Kumar Tokas as being the accused arrayed in FIR No.126/2010, registered at PS CWC, under Sections 498A/406/34 Indian Penal Code, 1860. I also identify the respondent no.2 Ms. Anjana Sejwal present today in Court as being the complainant thereof. The proofs of identity of the petitioner nos. 1 to 3 and of the respondent no. 2 in the form of photocopies of their Aadhar Cards are on the record as Ex. CW1/A and Ex. CW1/D respectively. (Originals seen and returned.)

Apart from the petitioner no.1 to 3, there are no other persons arrayed as accused in the said FIR.

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RO & AC

FEBRUARY 26, 2018

Statement of CW2 : Ms. Anjana Sejwal, d/o Shri Rajender Sejwal, aged 32 years, r/o F-320, Lado Sarai, Mehrauli, Delhi.

ON S.A.

My affidavit annexed to the petition bears my signatures thereon at points-A & B on Ex.CW2/A, which I have signed voluntarily of my own accord without any duress, pressure or coercion from any quarter.

Pursuant to the settlement arrived at between me and the petitioners, the marriage between me and the petitioner no.1 has since been dissolved vide decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 07.09.2017 of the Court of the Principal Judge, Family Courts, South, Saket Courts, New Delhi in HMA No. 1006/17, copy of which is on the record as Ex. CW2/B. In terms of the said settlement arrived at between me and the petitioners, the minor child born of the wedlock between me and the petitioner no.1 is in my custody and shall continue to live in my custody.

Pursuant to the settlement arrived at between me and the petitioners, a total sum of Rs. 19 lakh was to be paid to me by the petitioners, of which a sum of Rs. 15 lakh has been received by me previously and the balance sum of Rs. 4 lakh has been handed over to me by the petitioner today in Court in the form of a Demand Draft bearing no. 333105 dated 22.02.2018 in my favour drawn on the Union Bank of India, copy of which be filed by the respondent no.2 and that there are no claims of mine left against the petitioners now.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.126/2010, registered at PS CWC, under Sections 498A/406/34 Indian Penal Code, 1860 in view of the settlement arrived at between me and the petitioners nor do I want the petitionersto be punished in relation thereto.

I am having a Diploma in Computer Science.

The petitioner no.1 has re-married.

I have made this statement voluntarily of my own accord without any duress, pressure or coercion from any quarter.

ANU MALHOTRA, J

**RO & AC
FEBRUARY 26, 2018**