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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL. M.C. 4565/2017**

KANTA DEVI & ORS. Petitioner

Through: Mr. J.L. Bala, Adv. with petitioner
nos. 1 to 4 in person.

versus

THE STATE GOVT OF NCT OF DELHI Respondent

Through: Mr. Kamal Kr. Ghei, APP for State
with ASI Omvir, PS Welcome.
Mr. S.C. Sharma, Adv. for R-2 with
R-2 in person

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **04.01.2018**

Vide the present petition, the petitioner seeks quashing of FIR No.244/2002, registered at PS Welcome, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom submitting to the effect that there is a settlement arrived at between the petitioner no.1 Smt. Kanta Devi, mother-in-law, petitioner no. 2 Shri Virender @ Biju, brother-in-law, petitioner no.3 Shri Dharmender @ Billu, brother-in-law, petitioner no.4 Smt. Suman, sister-in-law of the respondent no.2 and the respondent no.2 Smt. Padma Rani, d/o Shri Chota Lal at the Delhi Mediation Centre, Karkardooma Courts, Delhi.

The Investigating Officer of the case present today in Court has affirmed the demise of Shri Pawan, the spouse of Smt. Padma Rani and Ms. Pinky, sister-in-law of Smt. Padma Rani, the complainant, who had been

arrayed as accused in FIR in question. The proofs of identity of the petitioner nos. 1 to 4 and of the respondent no. 2 have been produced in the form of their Aadhar Cards, photocopies of which are on the record as Ex. CW1/A to Ex. CW1/E respectively, originals of which have been seen and returned.

The respondent no.2, the complainant of the said FIR in her examination on oath by the Court has affirmed the aspect of demise of Shri Pawan, her spouse and also of Ms. Pinky, her sister-in-law who had also been arrayed as accused in the FIR No.244/2002, PS Welcome apart from the co-accused i.e. petitioner no.1 Smt. Kanta Devi, w/o late Shri Rampal, petitioner no. 2 Shri Virender @ Biju, s/o late Shri Rampal, petitioner no.3 Shri Dharmender @ Billu s/o late Shri Rampal, petitioner no.4 Smt. Suman, w/o Shri Jaipal.

The respondent no.2 has also testified to having signed the affidavit annexed to the petition thereon at points-A & B on Ex.CW2/A and has further testified to the effect that she has also signed the mediation settlement dated 22.12.2016 arrived at the Delhi Mediation Centre, KKD Courts, New Delhi thereon on each page voluntarily of her own accord without any duress, coercion or pressure from any quarter with the copy of the same being on the record as Ex. CW2/B,. She has further submitted that her two daughters, *namely*, Varsha and Ritu have since grown up, one is studying in B.Com (Final) and one is studying in 12th standard and that as all matters between her and the petitioners have since been resolved and there are no claims of hers left against the petitioners and she does not oppose the prayer made by the petitioner seeking quashing of the FIR No.244/2002, registered at PS Welcome, under Sections 498A/406/34 Indian Penal Code,

1860 and that she does not want the petitioner nos. 1 to 4 to be punished in relation thereto any further.

Learned APP for the State in the circumstances of the case in view of the settlement arrived at between the parties does not oppose the prayer made by the petitioner.

In view of the statement made by the respondent no.2, there is no reason to disbelieve her statement that she has arrived at the settlement voluntarily of her own accord without any duress, coercion or pressure from any quarter.

Taking into account the statement made by the respondent no.2 and the settlement arrived at between the petitioners and the respondent no.2 and the factum of demise of the spouse of the respondent no.2 and also apparently as the FIR is indicated to have been lodged due to differences between the respondent no.2 and her spouse Shri Pawan who has since expired as testified by the respondent no.2 and also brought forth through the mediation settlement on Ex. CW2/B on the record and that there are no claims of hers left against the petitioners as testified by the respondent no.2, it is considered appropriate for maintenance of peace and harmony between the petitioners and the respondent no.2 and for the well-being of two children of the respondent no.2 to put a quietus to the litigation between the parties and also 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)

In view thereof the FIR No.244/2002, registered at PS Welcome, under Sections 498A/406/34 Indian Penal Code, 1860 all the consequential proceedings emanating therefrom against the petitioner no.1 Smt. Kanta Devi, petitioner no. 2 Shri Virender @ Biju, petitioner no.3 Shri Dharmender @ Billu, petitioner no.4 Smt. Suman are thus quashed.

The petition is disposed of.

ANU MALHOTRA, J

JANUARY 04, 2018

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