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

+ CRL.M.C. 4658/2017

ANIL GERA & ORS

..... Petitioners

Through Ms. Rajni Gupta, Adv. with
Petitioners No.1 to 4

versus

THE STATE & ANR

..... Respondents

Through Mr. Izhar Ahmad, APP for the State
SI Raghuvir, PS Bindapur
Mr. A.K. Thakur, Adv. for R-2
With R-2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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24.04.2018

Vide the present petition, the petitioners no. 1 to 4 namely, petitioners No.1 to 4 Anil Gera, Shri Ved Prakash Gera, Smt. Rekha and Shri Sunil Gera seek quashing of the FIR No.82/2013, registered at PS Bindapur, under Sections 498A/406 of the Indian Penal Code, 1860 submitting to the effect that a settlement has since been arrived at between the petitioners and the respondent no. 2 and all disputes between them have been amicably settled.

The Investigating Officer has identified the petitioners as being the accused named in the said FIR and the respondent no. 2 present today in the court as being the complainant of the said FIR. The proof of the identity of the petitioners and of the respondent no. 2 in the form of photocopies of the

documents produced by them are Ex.CW1/A to Ex. CW1/E respectively, originals of which have been seen and returned.

The respondent no.2 in her examination on oath by the Court has testified to having sworn her affidavit annexed to the petition as Ex.CW2/E and has testified to having signed the settlement deed dated 20.10.2015 between the respondent no. 2 and the petitioner, copy of which is on the record as Ex.CW2/A, which she has signed voluntarily of her own accord without any duress or coercion from any quarter. She further stated that she does not oppose the prayer made by the petitioners seeking quashing of the FIR No.82/2013, registered at PS Bindapur, under Sections 498A/406 of the Indian Penal Code, 1860 nor does she wants the petitioners to be punished in relation thereto and in terms of the settlement arrived at a total sum of Rs.8.75 lakhs was to be paid to the respondent No.2 by the petitioners of which a sum of Rs.4.00 lakhs has been received by her during the proceedings under Sections 13B(1) of the HMA Act and Rs.3.00 lakhs were received by her during the proceedings under Section13(B)(2) of the HMA Act. She further testified to the dissolution of her marriage with the petitioner no. 1 vide a decree of divorce Ex.CW2/D under Section 13(B)(2) of the HMA of the Court of the Principal Judge, Family Courts, South West District, Dwarka, New Delhi on 11.7.2017 in HMA 2272/17. She further stated that the balance sum of Rs.1.75 lakhs has been received by her by way of a demand draft No.036198 dated 19.4.2018 drawn on Punjab & Sind Bank in her name as Richa Tuli, photocopy of the same is on the record as Ex.CW2/C. She further stated that the minor child born of the wedlock between her and the petitioner no. 1 is in her custody and shall continue to

remain in her custody and there are now no claims of hers left against the petitioners.

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 in view of the settlement arrived at between the parties.

In view of the deposition of the respondent no.2 and non opposition on behalf of the State and identification of the petitioner and the respondent no. 2 by the Investigating Officer as it is apparent that the FIR in question has been registered on the basis of a matrimonial discord between the petitioner no. 1 and the respondent no. 2 which has since been resolved and that the marriage between the respondent no. 2 and the petitioner no. 1 has been dissolved vide a decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 11.7. 2017 in HMA No. 2272/2017 of the Court of the Principal Judge Family Courts, District South West, Dwarka, New Delhi and thus for maintenance of peace and harmony between the petitioners and the respondent no.2 and for the well being of the child, it is considered essential to put *a quietus* to the litigation in view of the observations 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

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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,

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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 to allow the prayer made by the petitioners seeking quashing of the FIR No.82/2013, registered at PS Bindapur, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners No.1 to 4 Anil Gera, Shri Ved Prakash Gera, Smt. Rekha and Shri Sunil Gera are quashed.

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The petition is disposed of.

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Statement of CW1 : SI Raghuvir, PS Bindapur, Delhi.

ON S.A.

I identify the petitioners No.1 to 4 Anil Gera, Shri Ved Prakash Gera, Smt. Rekha and Shri Sunil Gera as being the accused in relation to the FIR No.82/2013, registered at PS Bindapur, under Sections 498A/406 of the Indian Penal Code, 1860 and the respondent No.2 Ms. Richa Gera @ Richa Tuli as being the complainant thereof. The proof of the identity of the petitioners No.1 to 4 and of the respondent no. 2 in the form of photocopies of documents produced by them are Ex.CW1/A to CW1/E (originals seen and returned).

RO & AC
APRIL 24, 2018

ANU MALHOTRA, J

Statement of CW2 : Ms. Richa Gera @ Richa Tuli d/o Shri Sunil Kumar Tuli aged 30 plus, r/o House No.E-1/10, Om Vihar Ext., Uttam Nagar, New Delhi-110059

ON S.A.

I do not oppose the prayer made by the petitioner seeking quashing of the FIR No.82/2013, registered at PS Bindapur, under Sections 498A/406 of the Indian Penal Code, 1860 nor do I want the petitioners No.1 to 4 to be punished in relation thereto in view of the settlement arrived between me and the petitioners at Mediation Centre, Dwarka Courts on 20.10.2015.

Certified copy of which is Ex.CW/A bears my signatures at point A on each page pursuant to which a total sum of Rs.8.75 lakhs was to be paid to me by the petitioner of which a sum of Rs.4.00 lakhs has been received by me during the proceedings under Sections 13B(1) of the HMA Act and Rs.3.00 lakhs during the proceedings under Section 13B(2) of the HMA Act. The decree sheet is Ex.CW2/D passed by the Principal Judge, Family Courts, South West District, Dwarka, New Delhi on 11.7.2017. The balance sum of Rs.1.75 lakhs has been received by me by way of a demand draft No.036198 dated 19.4.2018 drawn on Punjab & Sind Bank in my name as Rich Tuli. Photocopy of the same is Ex.CW2/C. My affidavit annexed to the petition bears my signatures thereon at points-A and B on Ex.CW2/E. The minor child born of the wedlock between me and the petitioner no. 1 is in my custody and shall continue to remain in my custody. The marriage between me and the petitioner no. 1 has been dissolved vide a decree of divorce through mutual

consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 11.7. 2017 in HMA No. 2272/17 of the Court of the Principal Judge Family Courts, District South West, Dwarka, New Delhi.

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

RO & AC
APRIL 24, 2018

ANU MALHOTRA, J