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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 4767/2017**
BRIJ MOHAN & ORS

..... Petitioner
Through Mr.C. M. Gopal, Adv. with petitioners
No.1, 3 to 7.

versus

THE STATE GOVT OF NCT OF DELHI & ANR

..... Respondents
Through Mr. Raghuvinder Varma, APP for the
State
SI Amolak, PS Najafgarh
Mr. C.K. Mishra, Adv. For R-2 & 3
with respondent No.2 in person

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
10.04.2018

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The petitioner no. 2 is not present due to old age and bedridden condition and her appearance has been exempted through counsel vide proceedings dated 23.1.2018.

The Investigating Officer who is present in Court has identified the petitioners No.1 to 7 namely, Shri Brij Mohan, Smt. Kalyani Devi through her photo at page 53 Ex.CW2/A, Shri Ram Avtar, Mrs. Anita, Mr. Lala Ra, Sh. Hukum Chand and Shri Pyare Lal respectively as being the only accused persons in the FIR No. 831/2015, PS Najafgarh, under Sections 498A/34 of the Indian Penal Code, 1860 and there are no other persons arrayed as accused in the said FIR and she also identified the respondent

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No.2 who is present in Court today as being the complainant.

Vide the present petition, the petitioners seek quashing of FIR No. 831/2015, PS Najafgarh, under Sections 498A//34 of the Indian Penal Code, 1860 submitting to the effect that a settlement has since been arrived at between the parties in mediation proceedings dated 29.6.2016 at Mediation Centre, Dwarka Courts, New Delhi.

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.CW1/C voluntarily of her own accord without any duress or coercion from any quarter and has also testified to having signed the settlement arrived at in the mediation proceedings dated 29.6.2016 at the Mediation Centre, Dwarka Courts, New Delhi. She affirmed that the marriage between the petitioner no. 1 and herself has since been dissolved vide a decree of divorce dated 12.5.2017 of the Court of the Principal Judge, Family Courts (HQ), South West District Dwarka, New Delhi in HMA No. 1846/17 under Section 13B(2) of the Hindu Marriage Act, 1955, copy of which is on the record as Ex.CW1/A. In terms of the settlement arrived at between petitioner No.1 and respondent No.2 a total sum of Rs.2,00,000/- was payable to the respondent No.2 by the petitioners of which Rs.1,40,000/- has already been received by her and the balance sum of Rs.60,000/- has been handed over to her by the petitioners vide D.D. No. 387599 dated 17.01.2018 drawn on the Oriental Bank of Commerce, which is in her name as Vimla in which name the respondent No.2 has a bank account, photocopy of which demand draft is on the record as Ex.CW2/B. The respondent No.2 has further stated that the affidavit of the respondent No.2 annexed to the petition bears her

signatures thereon at points-A and B on Ex.CW1/C. The respondent No.2 further affirmed that now there are no claims of hers left against the petitioners. She further stated that there is one daughter named Jyoti, respondent No.3 of the wedlock who is in her custody and shall continue to remain in her custody. The respondent No.2 has studied till Class VIII. She has stated that there are now no claims of hers left against the petitioners and that she does not oppose the prayer made by the petitioners seeking quashing of the FIR No. 831/2015, PS Najafgarh, under Sections 498A//34 of the Indian Penal Code, 1860. She states that she has made this statement voluntarily of her own accord without any duress, pressure or coercion from any quarter

Learned APP for the State submits that in the circumstances of the case, there is no opposition to the prayer made by the petitioners seeking quashing of the FIR in question in view of the settlement arrived at between the parties.

Apparently, the FIR has been registered as an aftermath to a matrimonial discord between the petitioner no.1 and the respondent no. 2 which has since been resolved by dissolution of their marriage vide a decree divorce through mutual consent. There appears no reason to disbelieve the statement made by the respondent No.2 that she has arrived at the settlement with the petitioners voluntarily of her own accord without any duress, coercion or pressure from any quarter and that she does not oppose the prayer made by the petitioners seeking quashing of the FIR No. 831/2015, PS Najafgarh, under Sections 498A//34 of the Indian Penal Code, 1860. Thus for maintenance of peace and harmony between the petitioners and the

respondent no.2, it is considered appropriate in the interest of justice 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)

and thus it is considered appropriate to allow the prayer made by the petitioner seeking quashing of the FIR No. 831/2015, PS Najafgarh, under Sections 498A//34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners.

In view thereof the FIR No. 831/2015, PS Najafgarh, under Sections 498A//34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against petitioners No.1 to 7 namely Shri Brij Mohan, Smt. Kalyani Devi, Shri Ram Avtar, Mrs. Anita, Mr. Lala Ram, Sh. Hukum Chand and Shri Pyare Lal are quashed.

The petition is disposed of.

ANU MALHOTRA, J

APRIL 10, 2018

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Statement of CW1 : Bimla @ Vimla d/o Lae Shri Babu Lal, r/o-A-42, Dwarka Vihar, Kakrla Road, Najafgarh, New Delhi also at House No.17, Gali No.3, Dwarka Vihar, Najafgarh, New Delhi aged 25 years ON S.A.

I do not oppose the prayer made by the petitioners No.1 to 7 namely, Shri Brij Mohan, Smt. Kalyani Devi, Shri Ram Avtar, Mrs. Anita, Mr. Lala Ra, Sh. Hukum Chand and Shri Pyare Lal seeking quashing of the FIR No. 831/2015, PS Najafgarh, under Sections 498A/34 of the Indian Penal Code, 1860 nor I do want the petitioners to be punished in relation thereto in view of the settlement arrived at between me and the petitioners during the course of the mediation proceedings dated 29.6.2016 at Mediation Centre, Dwarka Courts, New Delhi. The marriage between me and the petitioner no. 1 has since been dissolved vide a decree of divorce dated 12.5.2017 of the Court of the Principal Judge, Family Courts (HQ), South West District Dwarka, New Delhi in HMA No. 1846/17 under Sections 13B(2) of the Hindu Marriage Act, 1955, copy of which is on record as Ex.CW1/A. In terms of the settlement arrived at between me and the petitioners a total sum of Rs.2,00,000/- was payable to me by the petitioners of which Rs.1,40,000/- has already been received by me and the balance sum of Rs.60,000/- has been handed over to me by the petitioners vide D.D. No. 387599 dated 17.01.2018 drawn on the Oriental Bank of Commerce, which is in my name as Vimla in which I have a bank account, photocopy of which is on record as Ex.CW2/B. My affidavit annexed to the petition bears my signature there

at points-A and B on Ex.CW1/C. Now there are no claims of mine left against the petitioners. There is one daughter namely Jyoti, respondent No.3 of the wedlock between me and the petitioner no. 1 is in my custody and shall continue to remain in my custody. I have studied till Class VIII. I have made this statement voluntarily of my own accord without any duress, pressure or coercion from any quarter.

RO & AC
APRIL 10, 2018

ANU MALHOTRA, J

Statement of CW2 : I.O. SI Amolak, PS Najafgarh.**ON S.A.**

The petitioners No.1 to 7 namely, Shri Brij Mohan, Smt. Kalyani Devi, Shri Ram Avtar, Mrs. Anita, Mr. Lala Ra, Sh. Hukum Chand and Shri Pyare Lal respectively are the only accused persons in the FIR No. 831/2015, PS Najafgarh, under Sections 498A//34 of the Indian Penal Code, 1860 and there are no other person arrayed as accused in the said FIR. I identify the petitioners No. 1 and 3 to 7 who are present in the Court today. The petitioner No.2 Smt. Kalyani Devi has been exempted from appearance in terms of proceedings dated 23.1.2018 through counsel. I identify the respondent No.2 who is present in Court today as being the complainant. I identify the photograph of petitioner No.2 at page 53 of the petition Ex.CW2/A. The proof of identify the petitioners no. 1 to 7 and of the respondent no. 2 are on record in the form of the photocopies of the documents produced by them. Shri Hukum Chand petitioner N.6 produced his driving license as proof. Petitioner No. 7 has produced his Aadhar Card No.892966555392. The originals of the proof of identity have been seen and returned.

RO & AC
APRIL 10, 2018

ANU MALHOTRA, J