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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 4716/2017
VINAYAK NANDAN BHARMA & ANR. Petitioners
Through: Ms. Anju Sharma, Adv.

versus

THE STATE GOVT OF NCT OF DELHI & ANR ... Respondents
Through: Mr. Izhar Ahamd, APP for State with
SI Ajay Swami, PS Mansarovar Park.
Mr. M.K. Chawla, Adv. for R-2.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **02.04.2018**

Vide the present petition, the petitioner seeks quashing of FIR No.204/2016, registered at PS Mansarovar Park, under Sections 498A/406/34 Indian Penal Code, 1860 and under Section 4 of the Dowry Prohibition Act, 1961 submitting to the effect that the petitioner and the respondent no.2 have arrived at a settlement vide which the marriage between the petitioner and the respondent no.2 has been dissolved vide decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 22.08.2017 of the Court of the Principal Judge, Family Court (West), Tis Hazari Courts, New Delhi in HMA No. 998/2017, copy of which is on the record as Ex. CW2/C and all claims between the petitioner and the respondent no.2 have been settled in terms of the settlement arrived at the Counselling Cell of the Court of the Principal

Judge (West), Tis Hazari Courts, New Delhi, copy of which settlement document is on the record as Ex.CW2/A.

The Investigating Officer of the case present today in Court has identified the petitioner no. 1 Shri Vinayak Nandan Bharma, s/o late Shri Naresh Chandra Bharma and the photograph of the petitioner no.2 at page no. 145 of the petition as being the accused arrayed in FIR No.204/2016, registered at PS Mansarovar Park, under Sections 498A/406/34 Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act, 1961 and has also identified the respondent no.2 Ms. Priya Bharma present today in Court as being the complainant thereof. The proofs of identity of the petitioner nos. 1 & 2 and of the respondent no. 2 in the form of photocopies of their Aadhar Cards are on the record as Ex. CW1/A to Ex. CW1/C respectively. (Originals 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/B and has further testified to the effect that she has also signed the settlement document dated 22.12.2016 voluntarily of her own accord without any duress or coercion from any quarter. She has also stated that in view of the settlement arrived at between her and the petitioners, the petitioners have deposited a sum of Rs.20 lacs in the form of FDR bearing no. 135110000451 dated 20.01.2017 in the name of minor child Manya Bharma exhibited as P-3 in proceedings in HMA No. 222/2017, certified copy of which is on the record as Ex. CW2/D and that the same is to be released to her on the quashing of the

present FIR. She has further submitted that she does not oppose the prayer made by the petitioner seeking quashing of the FIR in question and does not want the petitioner to be punished in relation thereto.

She has further testified to the effect that she has a Masters in Food Nutrition and works as a Chief Dietician in Balaji Action Hospital.

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.

Vide proceedings dated 11.12.2017, the petitioner was directed to place on record the copy of the FDR stated to have been deposited before the trial Court along with the number thereof. The certified copy of the said FDR exhibited as Ex.P-3 in proceedings in HMA No. 222/2017 of the Court of the Principal Judge, Family Court, West is placed on the record for a sum of Rs.20 lacs in the name of minor child Manya Bharna born of the wedlock between the respondent no.2 and the petitioner.

In view of the deposition of the respondent no.2, there being no reason to disbelieve her statement as she is apparently well-educated that she has arrived at a settlement with the petitioner voluntarily of her own accord without any duress, coercion or pressure from any quarter, the matrimonial discord between the petitioner and the respondent no.2 having been dissolved vide dissolution of the marriage between the parties and all claims between the petitioner and the respondent no.2 having been settled, it is considered appropriate to

put a quietus to the litigation between the petitioner and the respondent no.2 for maintenance of peace and harmony and for the well-being of the respondent no.2 and the minor child, as 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.204/2016, registered at PS Mansarovar Park, under Sections 498A/406/34 Indian Penal Code, 1860 and under Section 4 of the Dowry Prohibition Act, 1961 and all the consequential proceedings emanating therefrom against the petitioner are thus quashed.

The FDR in the name of minor child Manya Bharmar born of the wedlock between the petitioner and the respondent no.2, exhibited as Ex.P-3 in proceedings in HMA No. 222/2017, certified copy of which is on the record as Ex.CW2/D, in view of the proceedings is directed to be released to the respondent no.2 directed by the Principal Judge, Family Court, West.

ANU MALHOTRA, J

APRIL 02, 2018/vm

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CRL.M.C. 4716/2017

VINAYAK NANDAN BHARMA & ANR.

Vs. THE STATE GOVT OF NCT OF DELHI & ANR

Statement of CW1 : SI Ajay Swami, PS Mansarovar Park, Delhi.

ON S.A.

I identify the petitioner no. 1 Shri Vinayak Nandan Bharma, s/o late Shri Naresh Chandra Bharma and the photograph of the petitioner no.2 at page no. 145 of the petition as being the accused arrayed in FIR No.204/2016, registered at PS Mansarovar Park, under Sections 498A/406/34 Indian Penal Code, 1860. I also identify the respondent no.2 Ms. Priya Bharma present today in Court as being the complainant thereof. The proofs of identity of the petitioner nos. 1 & 2 and of the respondent no. 2 in the form of photocopies of their Aadhar Cards are on the record as Ex. CW1/A to Ex. CW1/C respectively. (Originals seen and returned.)

There are no other persons arrayed as accused in the said FIR.

ANU MALHOTRA, J

RO & AC

APRIL 02, 2018

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CRL.M.C. 4716/2017

VINAYAK NANDAN BHARMA & ANR.

Vs. THE STATE GOVT OF NCT OF DELHI & ANR

Statement of CW2 : Ms. Priya Bharna, d/o Shri Sharad Paliwal, aged 33 years, r/o 1/2882, Shyam Bhawan, Ram Nagar, New Delhi.

ON S.A.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.204/2016, registered at PS Mansarovar Park, under Sections 498A/406/34 Indian Penal Code, 1860 nor do I want the petitioner nos. 1 & 2 to be punished in relation thereto in view of the settlement arrived at between me and the petitioners on 22.12.2016 at the Counselling Cell of the Court of the Principal Judge (West), Tis Hazari Courts, New Delhi with signature thereon at points A, B, C, D, E & F at the certified copy thereof on Ex.CW2/A. My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/B. I have signed both these documents i.e. Ex.CW2/A & Ex.CW2/B voluntarily of my own accord without any duress, pressure or coercion from any quarter.

The marriage between me and the petitioner no.1 has been dissolved vide decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 22.08.2017 of the Court of the Principal Judge, Family Court (West), Tis Hazari Courts, New Delhi in HMA No. 998/2017, copy of which is on the record as Ex. CW2/C. In view of the 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.

In view of the settlement arrived at between me and the petitioners, the petitioners have deposited a sum of Rs.20 lacs in the form of FDR bearing no. 135110000451 dated 20.01.2017 in the name of minor child Manya Bharna exhibited as P-3 in proceedings in HMA No. 222/2017, certified copy of which is on the record as Ex. CW2/D. In terms of the settlement arrived at between me and the petitioners, the sum of Rs.20 lacs in the name of minor child Manya Bharna is to be released on the quashing of the present FIR.

I have a Masters in Food Nutrition and work as a Chief Dietician in Balaji Action Hospital.

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

ANU MALHOTRA, J

RO & AC
APRIL 02, 2018