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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 4810/2017 & CRL.M.A. 19175/2017**
ANIS AHMED @ ANIS & ORS Petitioner
Through Mr. C.S. Rathour, Adv. with P1 in
person.
versus

THE STATE GOVT OF NCT OF DELHI & ANR..... Respondent
Through Mr. Kamal Kr. Ghei, APP for State
with SI PS Rawat PS Gandhi Nagar.
R2 in person

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **01.02.2018**

Vide the present petition, the petitioner no. 1 Anis Ahmed @ Anis s/o Mr. Abdul Majid, the petitioner no. 2 Mrs. Nashim Begam w/o Mr. Abdul Majid, the petitioner no. 3 Mr. Abdul Majid s/o Chajjo and the petitioner no. 4 Mr. Rais Ahmed s/o Mr. Abdul Majid seek quashing of the FIR No. 299/2014, registered at PS Gandhi Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860 submitting *inter alia* to the effect that a Family Settlement dated 24.12.2016 has been arrived at between the parties, copy of which is on record as Ex.CW2/A.

The Investigating Officer of the case has identified the petitioner no. 1 Anis Ahmed @ Anis s/o Mr. Abdul Majid as being the accused in relation to the FIR No. 299/2014, registered at PS Gandhi Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860. He has also identified the

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respondent no. 2 Tabassum w/o Anis Ahmed, present today in the court i.e.

the complainant of the FIR No. 299/2014, registered at PS Gandhi Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860. Photocopies of the proof of identity in the form of Election Commission Identity Cards are Ex. CW1/A to Ex. CW1/B respectively, originals of which have been seen and returned.

The respondent no. 2 on her examination by the Court on oath has testified to having sworn the Family Settlement dated 24.12.2016 executed between the parties, copy of which is on record as Ex.CW2/A and having sworn her affidavit as Ex.CW2/B annexed to the petition, which she has signed voluntarily of her own accord without any duress or coercion from any quarter. The respondent no. 2 has testified to the effect that she has studied till 9th standard and the respondent no. 2 has been living with the petitioner in the same house for the last one year and that the matter between herself and the petitioners has been settled vide a Family Settlement dated 24.12.2016. The respondent no. 2 has further testified to the effect that she thus does not oppose the prayer made by the petitioners seeking quashing of the FIR No. 299/2014, registered at PS Gandhi Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860 nor does she want the petitioners to be punished in relation thereto.

Learned APP for the State also in the circumstances of the case does not oppose the prayer made by the petitioners seeking quashing of the FIR No. 299/2014, registered at PS Gandhi Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860 in view of the settlement arrived at between the parties.

Taking into account the totality of the circumstances of the case and the statement made by the respondent no. 2, there appears no reason to disbelieve the statement made by the respondent no. 2 that she has arrived at

a settlement voluntarily of her own accord without any duress or coercion from any quarter and that the matrimonial discord between the petitioners and the respondent no. 2 having been resolved in view of the a Family Settlement dated 24.12.2016 and the factum that the respondent no. 2 has been living with the petitioner no.1 for the last one year. Thus to maintain peace and harmony between the parties, 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.]”

(emphasis supplied)

and in the case of *Jitendra Raghuvanshi & Ors. Vs. Babita Raghuvanshi & Anr.* (2013) 4 SCC 58, wherein the Supreme Court in respect of the matrimonial disputes has specifically held as follows:-

“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)

it is thus considered appropriate in the interest of justice that the prayer made by the petitioners seeking quashing of the FIR No. 299/2014, registered at PS Gandhi Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom is allowed and thus the FIR No. 299/2014, registered at PS Gandhi Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioner no. 1 Anis Ahmed @ Anis s/o Mr. Abdul Majid, the petitioner no. 2 Mrs. Nashim Begam w/o Mr. Abdul Majid, the petitioner no. 3 Mr. Abdul Majid s/o Chajjo and the petitioner no. 4 Mr. Rais Ahmed s/o Mr. Abdul Majid seek are quashed.

The petition is disposed of.

ANU MALHOTRA, J

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ANIS AHMED @ ANIS & ORS versus

THE STATE GOVT OF NCT OF DELHI & ANR

Statement of CW1 : SI PS Rawat PS Gandhi Nagar, Delhi

ON S.A.

I identify the petitioner no. 1 Anis Ahmed @ Anis s/o Mr. Abdul Majid as being the accused in relation to the FIR No. 299/2014, registered at PS Gandhi Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860. The petitioner no. 2 Mrs. Nashim Begam w/o Mr. Abdul Majid, the petitioner no. 3 Mr. Abdul Majid s/o Chajjo and the petitioner no. 4 Mr. Rais Ahmed s/o Mr. Abdul Majid have been put in column no. 12 in the charge-sheet that has been submitted.

I also identify the respondent no. 2 Tabassum w/o Anis Ahmed, present today in the court i.e. the complainant of the FIR No. 299/2014, registered at PS Gandhi Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860. Photocopies of the proof of identity in the form of Election Commission Identity Cards of the petitioner no. 1 and the respondent no. 2 are Ex. CW1/A to Ex. CW1/B respectively (originals seen and returned).

ANU MALHOTRA, J

RO & AC

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ANIS AHMED @ ANIS & ORS versus

THE STATE GOVT OF NCT OF DELHI & ANR

Statement of CW2 : Tabassum w/o Anis Ahmed d/o Mustafa, aged 28 years r/o T-604. Gali No. 12, T Block, Goutam Puri, Delhi.

ON S.A.

I identify the petitioner no. 1 present today in the Court. I have been living with the petitioner in the same house for the last one year. The dispute between me and the petitioners has been settled vide a Family Settlement dated 24.12.2016, copy of which is on the record and bears my signature as visible thereon at points-A on Ex.CW2/A. My affidavit annexed to the petition bears my signature thereon at points-A and B on Ex.CW2/B, which I have signed voluntarily of my own accord without any duress, pressure or coercion from any quarter. I have studied till 9th standard. I thus do not oppose the prayer made by the petitioners seeking quashing of the FIR No. 299/2014, registered at PS Gandhi Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860 nor do I want the petitioners to be punished in relation thereto. I have made this statement voluntarily of my own accord without any duress, pressure or coercion from any quarter.

ANU MALHOTRA, J

RO & AC

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