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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 5422/2017

DHARAM DASS & ORS

..... Petitioners

Through: Mr.Samar Singh, Advocate

versus

THE STATE GOVT OF NCT OF DELHI & ORS Respondents

Through: Mr. Panna Lal Sharma, APP for State
with ASI Roshni, CWC Nanakpura
Respondent No.2 in person with
Mr.____, Advocate (appearance not
given)

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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08.05.2018

Vide the present petition, the learned counsel for the petitioners confines the prayer made in the present petition seeking quashing of the FIR No.83/2013, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Nanakpura submitting *inter alia* to the effect that a settlement has been arrived at between the petitioners during the course of the proceedings under Section 13(B)(1) and under Section 13(B)(2) of the Hindu Marriage Act, 1955 between the petitioner No.1 and the respondent No.3.

The Investigating Officer of the case is present and has identified the petitioners No.1 to 5 *namely*, Dharam Dass, Ajay, Raj Kumar, Premwati and Sunita as being the accused and the respondent No.2 Anita Devi, as being the complainant in relation to the said FIR present in the Court today. Proofs of identities have been produced

by the petitioners and the respondent No.3.

The respondent No.3 in her examination on oath by the Court has affirmed of the factum that a settlement has been arrived at between the petitioners and herself during the course of the proceedings under Section 13(B)(1) and under Section 13(B)(2) of the Hindu Marriage Act, 1955 and submits that in view of the terms of the settlement arrived at between her and the petitioner No.1 a total sum of Rs.2,00,000/- was payable to her (which sum has already been received by her previously) and has stated that in terms of the settlement, the minor child Master Shlok born of the wedlock between her and the petitioner No.1 is in her custody and shall continue to remain in her custody.

Inter alia, the respondent No.3 has testified to the effect that the marriage between her and the petitioner No.1 has since been dissolved vide a decree of divorce through mutual consent dated 25.7.2017 in HMA No.498/17 under Section 13(B) (2) of the Hindu Marriage Act, 1955 of the Principal Judge, Family Courts, South-East, Saket Courts, New Delhi, the true copy of which is on the record as EX.CW-2/A. She also states that in view of the settlement arrived at between her and the petitioners, she does not oppose the prayer made by the petitioners seeking quashing of the FIR No.83/2013, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Nanakpura, nor she does want the petitioners to be punished in relation thereto as all disputes between her and the petitioners persons have been settled.

The learned APP for the State also, in the facts and

circumstances, does not oppose the prayer made by the petitioners seeking quashing of the FIR No.83/2013, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Nanakpura.

In view of the statement made by the respondent No.3 and the record, the factum that the respondent No.3 has studied till standard 7th and is doing a private job since 2013 and that there is no opposition on behalf of the State, there appears no reason to disbelieve the statement made by the respondent No.3 that she has arrived at a settlement with the petitioners voluntarily of her own accord without any duress, coercion or pressure from any quarter and that she does not seek the continuance of the FIR against the petitioners, *namely*, Dharam Dass, Ajay, Raj Kumar, Premwati and Sunita. As apparently the FIR is indicated to have been registered due to a matrimonial discord which has since been resolved, 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 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 prayer made by the petitioners seeking quashing of the FIR No.83/2013, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Nanakpura and all consequential proceedings emanating therefrom against the petitioners No.1 to 5, *namely*, Dharam Dass, Ajay, Raj Kumar, Premwati and Sunita is thus allowed and the FIR No.83/2013, under Sections 498A/406/34 Indian

Penal Code, 1860, Police Station Nanakpura and all consequential proceedings emanating therefrom against the petitioners are thus quashed accordingly.

The petition is disposed of.

ANU MALHOTRA, J

MAY 08, 2018/SV

IN THE HIGH COURT OF DELHI: NEW DELHI

Item No. 03

Crl. M.C. 5422/2017

DHARAM DASS & ORS. V. STATE AND ORS..

08.05.2018

**CW-1 ASI ROSHNI SHARMA, POLICE STATION/CWC
NANAKPURA**

ON S.A.

I identify the petitioners No.1 to 5, *namely*, Dharam Dass, Ajay, Raj Kumar, Premwati and Sunita as being the accused and the respondent No.2 Anita Devi, as being the complainant of the FIR No.83/2013, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Nanakpura present in the Court today.

The proofs of identity of the petitioners No.1, 2, 4 and 5 and the driving licence of the petitioner No.3 (photocopy of the same is directed to be placed on record) have been produced. The photocopy of the proof of identify of the respondent No.2 be also placed on the record. The photocopy of the proofs of identify of the petitioners No.1,2 4 and 5 are Ex.CW-1/A to Ex.CW-1/D (Original seen & returned.).

RO & AC

08.05.2018

ANU MALHOTRA, J

IN THE HIGH COURT OF DELHI: NEW DELHI

Item No. 03

Crl. M.C. 5422/2017

DHARAM DASS & ORS. V. STATE AND ORS..

08.05.2018

**CW-2 ANITA D/O ANANT RAM AGED 32 YEARS R/O H-11, SHIV
DURGA VIHAR, FARIDABAD AND PREVIOUSLY R/O D-607,
KIDWAI NAGAR, EAST
ON S.A.**

I have studied till standard 7th and doing private job.

I do not oppose the prayer made by the petitioners No. 1 to 5, *namely*, Dharam Dass, Ajay, Raj Kumar, Premwati and Sunita seeking quashing of the FIR No. 83/2013, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Nanakpura in view of the settlement arrived at between me and the petitioners No.1 to 5 in the proceedings Under Section 13 (b) (2) of the Hindu Marriage Act, 1955 of the Court of Principal Judge, Family Court, South-East, Saket, New Delhi in HMA No.498/17.

During the course of the proceedings under Section 13 (b) (2) of the Hindu Marriage Act, 1955 of the Court of Principal Judge, Family Court, South-East, Saket, New Delhi, in view of the settlement arrived at between me and the petitioners a total sum of Rs.2 lacs was to be paid to me by the petitioners which sum has already been received by me from the petitioners. In terms of the settlement as indicated in the proceedings in HMA No.498/17, the minor child Master Shlok born of the wedlock between me and the petitioner No.1 is in my custody and shall continue to remain in my custody. There are now no claims of mine left against the petitioners. The marriage between me and the petitioner No.1 has since been dissolved vide a

decree of divorce through mutual consent dated 25.7.2017 in HMA No.498/17 under Section 13(B) (2) of the Hindu Marriage Act, 1955 of the Principal Judge, Family Courts, South-East, Saket Courts, New Delhi. The true copy of which is on the record as EX.CW-2/A.

In view of the settlement arrived at between me and the petitioners, I do not seek any further action against the petitioners No.1 to 5 *namely*, *namely*, Dharam Dass, Ajay, Raj Kumar, Premwati and Sunita and I do not oppose the prayer made by the petitioners seeking quashing of the FIR No. 83/2013, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Nanakpura and all consequential proceedings emanating therefrom. In view of the settlement arrived at between me and the petitioners No.1 to 5, I do not seek that the petitioners be punished in relation to the said FIR No. 83/2013, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Nanakpura. I have stated so voluntarily of my own accord without any duress, pressure or coercion from any quarter.

RO & AC
08.05.2018

ANU MALHOTRA, J