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

+ CRL.M.C. 5106/2017

CHANDAN & ORS

..... Petitioner

Through: Mr. Vijay Chandra Jha, Adv.

versus

STARTE (NCT OF DELHI) & ANR

..... Respondent

Through: Mr. Kamal Kr. Ghei, APP for State
with SI Pradeep Sharma, PS IP
Estate.

Ms. Neelam Kholiya, Adv. for R-2
with R-2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

30.01.2018

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Vide the present petition, the petitioner seeks quashing of FIR No.63/2015, registered at PS IP Estate, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom submitting to the effect that there is a settlement arrived at between the petitioners and the respondent no.2 at the Mediation Centre, Saket Courts, New Delhi and pursuant thereto the marriage between the respondent no.2 and the petitioner no.1 has since been dissolved vide the decree of divorce through mutual consent under Section 13 (B)(2) Hindu Marriage Act, 1955 in HMA no. 785/17 vide decree of divorce of the Court of Principal Judge, Family Court (SE), Saket Courts, New Delhi, copy of which is on the record as Ex. CW2/B.

The Investigating Officer of the case present today in Court has identified the petitioner no. 1 Shri Chandan, s/o Shri Shyam Lal, petitioner no. 2 Shri Shyam Lal, s/o late Shri Teju Ram, petitioner no. 3 Smt. Tara

Wanti w/o Shri Shyam Lal as being the three accused in relation to FIR No.63/2015, registered at PS IP Estate, under Sections 498A/406/34 Indian Penal Code, 1860 and has also identified the respondent no.2 Ms. Kamia Ratra as being the complainant thereof present today in Court. The petitioners and the respondent no.2 have produced their proofs of identity, photocopies of proofs of identity of the petitioners are directed to be placed on record.

The respondent no.2, the complainant of the said FIR in her examination on oath by the Court has testified to having sworn her affidavit annexed to the petition as Ex.CW2/D and has further testified to having signed the mediation settlement dated 29.11.2016 arrived at the Mediation Centre, Saket Courts, New Delhi (certified copy of which is on the record as Ex. CW2/A), voluntarily of her own accord without any duress, pressure or coercion from any quarter and further testified *inter alia* to the effect that pursuant to the settlement arrived at between herself and the petitioners, she has already handed over the keys of the property belonging to the petitioners which were in her occupation and in terms of the said settlement, she has received a total sum of Rs. 6.75 lacs of which a sum of Rs. 1.25 lacs has been handed over to her by the petitioners today in Court in the form of a Demand Draft bearing no. 638834 dated 16.11.2017 drawn on the PNB, Jor Bagh, New Delhi in her favour, copy of which is on the record as CW2/C and that there are no claims of hers left against the petitioners and has further testified to the effect that there is no child born of the wedlock between her and the petitioner no.1 and further testified to the effect that the marriage between herself and the petitioner no.1 had been dissolved vide a decree of divorce through mutual consent under Section 13 (B)(2) Hindu

Marriage Act, 1955 in HMA no. 785/17 vide decree of divorce of the Court of of Principal Judge, Family Court (SE), Saket Courts, New Delhi, copy of which is on the record as Ex. CW2/B. Further the respondent no.2 has handed over the original Election Commission ID Card bearing no. SJE1831436 in her name at the address of the petitioner no.1 at 31, Block-F, BK Dutt Colony, Lodhi Colony Delhi, copy of which is directed to be placed on record.

The respondent no.2 has further testified to the effect that she is an MCA and works as a guest teacher in the Directorate of Education.

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

Taking into account the mediation settlement arrived at between the petitioners and the respondent no.2 and the statement made by the respondent no.2, the factum that she is apparently educated and that there is no reason to disbelieve her statement 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 as the FIR in question apparently emanates from the matrimonial discord between the petitioner no.1 and the respondent no.2 which matrimonial discord has since been resolved by the dissolution of the marriage between the respondent no.2 and the petitioner no.1 vide the decree of divorce through mutual consent under Section 13 (B)(2) Hindu Marriage Act, 1955 in HMA no. 785/17 vide decree of divorce of the Court of of Principal Judge, Family Court (SE), Saket Courts, New Delhi, copy of which is on the record as Ex. CW2/B and as stated by the respondent no.2 that all claims between her and the petitioner no.1 have

since been settled and there are no claims of hers left against the petitioners and also taking into account the non-opposition on behalf of the State, for maintenance of peace and harmony between the petitioner and the respondent no.2, 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)

it is considered appropriate to allow the prayer made by the petitioner seeking quashing of FIR No.63/2015, registered at PS IP Estate, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner.

In view thereof the FIR No.63/2015, registered at PS IP Estate, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner no. 1 Shri Chandan, s/o Shri Shyam Lal, petitioner no. 2 Shri Shyam Lal, s/o late Shri Teju Ram, petitioner no. 3 Smt. Tara Wanti w/o Shri Shyam Lal are quashed.

The petition is disposed of.

ANU MALHOTRA, J

JANUARY 30, 2018

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CRL.M.C. 5106/2017

CHANDAN & ORS

Vs. STARTE (NCT OF DELHI) & ANR

Statement of CW1 : SI Pradeep Sharma, PS IP Estate, Delhi.

ON S.A.

I identify the petitioner no. 1 Shri Chandan, s/o Shri Shyam Lal, petitioner no. 2 Shri Shyam Lal, s/o late Shri Teju Ram, petitioner no. 3 Smt. Tara Wanti w/o Shri Shyam Lal as being the three accused in relation to FIR No.63/2015, registered at PS IP Estate, under Sections 498A/406/34 Indian Penal Code, 1860 registered on the complaint of the respondent no.2 Ms. Kamia Ratra present today in Court whom I also identify

Driving Licence of the petitioner no.1 Shri Chandan,, Election Card of the petitioner no.2 Shri Shyam Lal and Adhar Card of the petitioner no. Smt. Tara Wanti have been produced, photocopies of which are directed to be placed on record. Original Adhar Card of the respondent no. 2 has been produced and photocopy of which is on the record as CW1/A.

Apart from the petitioner nos. 1 to 3 there are no other persons arrayed as accused in the said FIR.

ANU MALHOTRA, J

RO & AC

JANUARY 30, 2018

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CRL.M.C. 5106/2017

CHANDAN & ORS

Vs. STARTE (NCT OF DELHI) & ANR

Statement of CW2 : Smt. Kamia Ratra d/o Shri Prem Nath Ratra, aged 30 years, r/o E-14, Vikram Nagar, Firoz Shah Kotla, Delhi-110002.

ON S.A.

The mediation settlement dated 29.11.2016 arrived at the Mediation Centre, Saket Courts, New Delhi bears my signature thereon at point-A on each page thereof on Ex. CW2/A and my affidavit annexed to the petition also bears my signature thereon at points-A & B on Ex.CW2/D, I have signed both these documents voluntarily of my own accord without any duress or coercion from any quarter.

The marriage between me and the petitioner no.1 has since been dissolved vide the decree of divorce through mutual consent under Section 13 (B)(2) Hindu Marriage Act, 1955 in HMA no. 785/17 vide decree of divoce of the Court of DSJ, Family Court, Saket Courts, New Delhi, copy of which is on the record as Ex. CW2/B.

I have handed over my Election Commission ID Card bearing no. SJE1831436 in my name at the address of the petitioner no.1 at 31, Block-F, BK Dutt Colony, Lodhi Colony Delhi, copy of which is directed to be placed on record.

In terms of the mediation settlement, I have already handed over the keys of the room of the petitioners to them. In terms of the said settlement, I have previously received a sum of Rs. 3 lacs at the time of recording of the Statement under Section 13(B)(1) of Hindu Marriage Act, 1955 and a sum

of Rs. 2.50 lacs at the time of recording of the statement in the proceedings under Section 13(B)(2) of Hindu Marriage Act, 1955 and now I have received a sum of Rs. 1.25 lacs from the petitioners in the form of Demand Draft bearing no. 638834 dated 16.11.2017 drawn on the PNB, Jor Bagh, New Delhi, copy of which is on the record as CW2/C. There are no claims of mine left against the petitioners. There is no child born of the wedlock between me and the petitioner no.1.

I do not oppose the prayer made by the petitioner seeking quashing of the FIR No.63/2015, registered at PS IP Estate, under Sections 498A/406/34 Indian Penal Code, 1860 in view of the settlement arrived at between me and the petitioners.

I am an MCA. I am a guest teacher in the Directorate of Education.

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

ANU MALHOTRA, J

**RO & AC
JANUARY 30, 2018**