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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 5157/2017

GURMEET SINGH & ORS

..... Petitioner

Through: Mohd. Azharuddin, Advocate
versus

STATE (NCT OF DELHI) & ANR

..... Respondents

Through: Mr. Sanjeev Sabharwal, APP for
State

Ms. Kamlesh Uniyal, Advocate for
R-2

Ms. Meetu, R-2, in person.

SI Mukesh Yadav, PS Jagatpuri

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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23.01.2018

Vide the present petition, the petitioner seeks quashing of the FIR No. 304/2016 registered at PS Jagat Puri, under Sections 498A/406/34 of the Indian Penal Code, 1860 registered on the complaint of the respondent no. 2 Neeru, submitting *inter alia* to the effect that a settlement has been arrived at between the petitioners and the respondent no. 2 in as much as 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) of the Hindu Marriage Act, 1955 vide decree dated 15.2.2017 in the Court of Additional Principal Judge, Family Court (West), Tis Hazari, Delhi, the copy of which is on record as Ex. CW-2/B, pursuant to a settlement dated 15.2.2017 between the parties before the Additional Principal Judge, Family Court (West) Tis Hazari Courts, copy of which is on record as Ex.CW2/B.

The Investigating Officer of the case is present in Court

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. 304/2016 registered at PS Govind Puri under Sections 498A/406/34 of the Indian Penal Code, 1860.

The photocopy of the proof of identity of the petitioners and the respondents no. 2 are on the record as Ex.CW1/A to Ex.CW1/F, originals of which have been seen and returned, on the basis of which the Investigating Officer of the case has identified the petitioner no. 1.

The respondent no. 2 is also present today in the Court and has been examined by the Court and she has testified that her affidavit annexed to the petition bears her signature thereon at points-A and B on Ex.CW2/A, which she has signed voluntarily of her own accord without any duress, pressure or coercion from any quarter. She has further testified to the effect that a settlement dated 15.2.2017 has been arrived at between the parties before the Additional Principal Judge, Family Court, Central, Tis Hazari Courts,, which bears her signatures as visible thereon at points-A on each page on Ex.CW2/B, which she has signed voluntarily of her own accord without any duress, pressure or coercion from any quarter. She has further testified that the marriage between herself and the petitioner no.1 has since been dissolved vide a decree of divorce through mutual consent under Section 13 B (2) of the Hindu Marriage Act, 1955 vide decree dated 15.2.2017 of the Court of the Additional Principal Judge, Family Court(West), Tis Hazari Courts, Delhi, the copy of which is on record as Ex.CW2/C and that pursuant to the said settlement arrived at between the parties, a total sum of Rs.5 lakhs was agreed to be paid by the petitioners, out of which a sum of

Rs.3 lacs has already been received by her and the balance sum of Rs.2 lakhs has been received today by her in the Court. She has further testified that now there are no claims of hers left against the petitioners and that in terms of the said settlement, the daughter born of the wedlock with the petitioner no.1 lives with the petitioner no. 1 shall remain in custody of the petitioner no. 1 qua whom she has visitation rights. The respondent no. 2 has further testified to the effect that thus she does not oppose the prayer made by the petitioners seeking quashing of the FIR No. 304/2016, registered at PS Govind Puri, under Sections 498A/406/34 of the Indian Penal Code, 1860 nor does she want the petitioners to be punished. She has further testified that she is a graduate and she does documentation work in a bank.

She further state that she has made this statement voluntarily of her own accord without any duress, pressure or coercion from any quarter.

Taking into account the statement made by the respondent no. 2, there appears no reason to disbelieve the said statement made by her that she has arrived at a settlement voluntarily of her own accord without any duress or coercion from any quarter. 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. 304/2016, PS Govind Puri under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom is allowed and thus the FIR No. 304/2016 registered at PS Sadar Bazar, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential

proceedings emanating therefrom against the petitioners are quashed.

The petition is disposed of.

ANU MALHOTRA, J

JANUARY 23, 2018/P

CRL.M.C. 5157/2017

23.1.2018

STATEMENT OF Investigating Officer, SI MUKESH YADAV, PS JAGATPURI. ON SA

I identify the petitioner nos. 1 to 5, Gurmeet Singh, Smt. Ranjeet Kaur, Narender Singh @ Sonu, Kuljeet Kaur & Paramjeet Kaur in case FIR No. 0304 dated 1.10.2016 registered under sections 498A/406/34 Indian Penal Code, 1860 at PS Jagat Puri.

I also identify the complainant of the said FIR i.e. respondent no.2. The photocopy of the proof of identity of petitioner nos. 1 to 5 in the form of their Aadhar cards have been produced (original seen and returned), which are on record as Ex. CW-1/A to E. The photocopy of Election Commission Identity Card of the respondent no.2 is on record as CW-1/F. (original seen and returned).

R.O. & A.C.

23.1.2018.

ANU MALHOTRA, J

STATEMENT OF NEERU, DAUGHTER OF SHRI PREM SINGH, AGED 30 YEARS, R/O. HOUSE NO. 4, RASHEED MARKET, MAIN PATPARGANJ, DELHI, ON S.A.

I have signed my affidavit which are at points A and B thereon. The settlement has been arrived at between us in the Court of Additional Principal Judge, Family Court (West), Tis Hazari on 15.2.2017. It bears my signatures at point A on the copy thereon as Ex. CW-2/B.

I have signed both these documents voluntarily without any fear, duress or coercion. The marriage between me and the petitioner no.1 has been dissolved by Decree of divorce, copies of which are on record as Ex. CW-2/C.

Pursuant to the settlement arrived at between me and the petitioners, the total sum of Rs. 3 lacs has already been received and the balance sum of Rs. 2 lacs has been handed over to me today by the petitioner by way of demand draft no. 020823 dated 06.12.2017 in my favour drawn on HDFC Bank. The copy of which is at Ex. CW-2/D. I do not oppose the petition seeking quashing of the FIR No. 304/2016 PS Govind Puri under Sections 498A/406/34 Indian Penal Code, 1860. I do not want any of the petitioners to be punished.

There is no other claim pending against the petitioners. My daughter born of the wedlock with the petitioner no.1 lives with the petitioner no. 1 and I have visiting rights qua her. I am a graduate and work in a working in a bank doing documentation work.

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

R.O. & A.C.

23.1.2018.

ANU MALHOTRA, J