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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 5234/2017**
PYARA SINGH & ORS Petitioner
Through Mr. Pramod Kumar, Adv. with
petitioners in person.

versus

THE STATE GOVT OF NCT OF DELHI & ANR..... Respondent
Through

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **09.01.2018**

Vide the present petition, the petitioner no. 1 Pyara Singh s/o Sh. Ajit Singh, the petitioner no. 2 Kanwaljeet Kaur w/o Sh. Pyara Singh, the petitioner no. 3 Satish Saxena @ Sattu s/o Sh. Ramesh Chand Saxena and the petitioner no. 4 Poonam Saxena w/o Sh. Satish Saxena seek quashing of the FIR No. 68/14, registered at PS Sagarpur, under Sections 354/354A/509/34 of the Indian Penal Code, 1860 registered on the complaint of the respondent no. 2 Preeti Babrej d/o Sh. Rajender Kumar submitting to the effect that a settlement has been arrived at between the parties vide the Memorandum of Settlement dated 15.04.2017. Through the submissions made in the petition and as made in the Memorandum of Settlement dated 15.04.2017, the divorce through mutual consent between the son of the petitioner no. 1 and the respondent no. 2 has yet to take place and thus the said factum of clause-8 put forth through the Memorandum of Settlement dated 15.04.2017 was directed to be verified by the investigating

agency, which has since been verified as per the verification report submitted by the State under signatures of the SHO PS Sagarpur, New Delhi and alongwith the report is the statement of the complainant also recorded by the Investigating Officer affirming the factum of the settlement in view of the Memorandum of Settlement dated 15.04.2017. The father of the respondent no. 2 Mr. Rajender Kumar is also present today in the Court and has been examined by the Court as CW1 and has affirmed having signed the said Memorandum of Settlement dated 15.04.2017 at point-A on each page of Ex.CW1/A voluntarily of his own accord without any duress, pressure or coercion from any quarter and submits that he does not oppose the prayer made by the petitioner seeking quashing of the FIR in question in view of the settlement arrived at between the petitioners and the respondent no. 2. The respondent no. 2 has also been examined on oath by the Court and in reply to a specific Court query as affirmed having put her signatures on the Memorandum of Settlement dated 15.04.2017 at point-B on each page of Ex.CW1/A. In reply to the specific Court query, the respondent no. 2 has affirmed having signed the said Memorandum of Settlement dated 15.04.2017 despite clause-8 of the said Memorandum of Settlement dated 15.04.2017 to the effect : -

“8. That it is further resolved between the First Party and the Third Party that they shall assist each other and file a petition for Divorce on the basis of Mutual Consent after the quashing of both the above mentioned FIR.”

and stated that the proceedings u/s 13B(1) of the Hindu Marriage Act, 1955 qua the first motion petition seeking divorce through by mutual consent

between herself and her husband Hardeep Singh has taken place on 08.01.2018 at the Patiala House Court, New Delhi in which her statement and that of her husband Hardeep Singh has been recorded and she has affirmed that despite the factum that the marriage between herself and her husband Hardeep Singh has not yet been dissolved by the decree of divorce and that she does not oppose the prayer made by the petitioners seek quashing of the FIR No. 68/14, registered at PS Sagarpur, under Sections 354/354A/509/34 of the Indian Penal Code, 1860.

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. 68/14, registered at PS Sagarpur, under Sections 354/354A/509/34 of the Indian Penal Code, 1860.

Taking into account the statement made by the respondent no. 2, there appears no reason to disbelieve the statements 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. 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 view of the observations of the Hon’ble Supreme Court in the case of *Jitendra Raghuvanshi & Ors. Vs. Babita Raghuvanshi & Anr.* (2013) 4 SCC 58, wherein in respect of matrimonial disputes, it has observed 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. 68/14, registered at PS Sagarpur, under Sections 354/354A/509/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom is allowed and thus the FIR No. 68/14, registered at PS Sagarpur, under Sections 354/354A/509/34 of the Indian Penal Code, 1860 against the petitioner no. 1 Pyara Singh s/o Sh. Ajit Singh, the petitioner no. 2 Kanwaljeet Kaur w/o Sh. Pyara Singh, the petitioner no. 3 Satish Saxena @ Sattu s/o Sh. Ramesh

Chand Saxena and the petitioner no. 4 Poonam Saxena w/o Sh. Satish Saxena and all consequential proceedings emanating therefrom are quashed.

The petition is disposed of.

Copy of the order be given *Dasti*, as prayed.

ANU MALHOTRA, J

JANUARY 09, 2018/MK