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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 693/2018**

ARJUN DEWAN & ORS Petitioners
Through: Mr.Amarjit Singh Bedi, Advocate

versus

STATE (NCT OF DELHI) & ANR Respondents
Through: Mr. Kamal Kr. Ghei, APP for State
Mr.Sudhir Kumar and Mr.Jai Bansal,
Advocates for R-2 with R-2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **13.02.2018**

The certified copy of the decree sheet in terms of order dated 9.2.2018 qua dissolution of the marriage between the petitioner no.1 and the respondent No.2 dated 30.10.2017 issued by the Court of Principal Judge, Family Courts, in HMA No.878/2017 has already been submitted.

To come up at 12:30 P.m.

ANU MALHOTRA, J
FEBRUARY 13, 2018/sv

At 1. 00 p.m.

Present: Mr.Amarjit Singh Bedi, Advocate for the petitioners.
Mr. Kamal Kr. Ghei, APP for State with SI Ramkesh
Police Station Parliament Street.

Mr.Charanjeet Siungh, Advocate for R-2 with R-2 in person.

Vide the present petition, the petitioners seek quashing of the FIR No.505/2015, under Sections 498A Indian Penal Code, 1860, Read with Section 3,4 Dowry Prohibition Act, Police Station Bariyatu, Ranchi and all consequential proceedings emanating therefrom. The proceedings in this matter have been taken up in view of the proceedings dated 9.2.2018 and also pursuant to the directions dated 30.9.2016 of the Apex Court in Transfer Petition (Civil) No..734/2016 for transferring the proceedings in relation to FIR No.505/2015, under Sections 498A Indian Penal Code, 1860, Read with Section 3 and 4 Dowry Prohibition Act, Police Station Bariyatu, Ranchi pending at Ranchi to Delhi.

The respondent No.2, i.e., the complainant of the FIR in question is present in Court and has identified the petitioners No.1 to 3, *namely*, Arjun Dewan, Kedar nath Dewan and Sharad Dewan as being the persons against whom she had lodged the complainant on the basis of which the FIR in question was registered and also stated that apart from the petitioners No.1 to 3, *namely*, Arjun Dewan, Kedar nath Dewan and Sharad Dewan there are no other persons against whom she had filed the complaint.

A perusal of the report under Section 173 of the Cr.P.C. on the record in the instant case also indicates the names of only three persons arrayed as accused in the said report dated 25.1.2016.

The proofs of identity of the petitioners No.1 to 2, *namely*, Arjun Dewan, Kedar nath Dewan have been produced in the form of

their Aadhar Cards being EX.CW-1/A and B and of the petitioner No.3, *namely*, Sharad Dewan in the form of the Election Commission Identity Card, the photocopy of which is to be filed on the record, and of the respondent No.2 in the form of Aadhar Card being EX.CW-1/D as well.

The respondent No.2 has also affirmed having signed the settlement arrived at between her and the petitioners at the Counselling Cell, Patiala house Courts and Memorandum of Understanding dated 9.3.2017, i.e. EX.CW-1/E and she has further testified to the effect that in terms of the settlement arrived at between her and the petitioners, a total sum of Rs.1 crore was to be paid to her by the petitioners of which a sum of Rs.60 lakhs has been received by her previously from the petitioners and the balance sum of Rs.40 Lakhs has been handed over to her today by the petitioners in the form of Demand Drafts bearing Nos. 500946 dated 5.2.2018 for a sum of Rs.5,00,000/- being EX.CW-1/G, 500947 dated 5.2.2018 for a sum of Rs.22,00,000/- being EX.CW-1/H, 004702 dated 7.2.2018 for a sum of Rs.2,00,000/- being EX.CW-1/I and 004703 dated 7.2.2018 for a sum of Rs.11,00,000/- being EX.CW-1/J, all drawn on ICICI bank in her favour respectively. The respondent No.2 has further testified to the effect that now no claims of hers are left against the petitioners. She further testified to the effect that there was no child born of the wedlock and that the marriage between her and the petitioner No.1 has since been dissolved vide a decree of divorce through mutual consent dated 30.10.2017 under Section 13 B (2) of the Hindu Marriage Act, 1955 in HMA No.878/2017 of the Principal

Judge, Family Court, Patiala House Courts, New Delhi, the certified copy of which is on the record as EX.CW-1/F and has testified that all claims that between her and the petitioners have since been settled. The respondent No.2 has further testified to the effect that she has done her Masters in Product Designing and works as an Interior Designer.

The respondent No.2 is represented by learned counsel Mr.Charanjit Singh, whose vakalatnama is on the record and who duly identifies the respondent No.2 as well as she does not oppose the prayer made by the petitioners seeking quashing of the FIR No.505/2015, under Sections 498A Indian Penal Code, 1860, Read with Section 3,4 Dowry Prohibition Act, Police Station Bariyatu, Ranchi and states that she has made her statement voluntarily of my own accord without any duress, pressure or coercion from any quarter.

SI Ramkesh, Police Station Parliament Street has identified the petitioners No.1 to 3, *namely*, Arjun Dewan, Kedar Nath Dewan and Sharad Dewan, on the basis of the documents produced as being the accused and has also identified the complainant Ms.Neha Jain, in relation to the FIR in question.

The Learned APP for the State in view of the statement made by the respondent No.2 and in the facts and circumstances also does not oppose the prayer made by the petitioners seeking quashing of the FIR in question.

In view of the statement made by the respondent No.2 on the record, there appears no reason to disbelieve the statement made by

the respondent No.2 that she has arrived at a settlement with the petitioner 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 as apparently the FIR is indicated to have been registered due to a matrimonial discord which has since been resolved vide a decree of divorce through mutual consent dated 30.10.2017 under Section 13 B (2) of the Hindu Marriage Act, 1955 in HMA No.878/2017 of the Principal Judge, Family Court, Patiala House Courts, New Delhi, 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),

it is considered appropriate in the interest of justice to put a quietus to the litigation between the parties so that peace and harmony between them is restored to allow the prayer made by the petitioners seeking quashing of the FIR in question and all consequential proceedings emanating therefrom against the petitioners No. 1 to 3, *namely, namely, Arjun Dewan, Kedar Nath Dewan and Sharad Dewan* is allowed and thus the FIR No.505/2015, under Sections 498A Indian Penal Code, 1860, Read with Section 3,4 Dowry Prohibition Act, Police Station Bariyatu, Ranchi, and all consequential proceedings emanating therefrom against the petitioners No.1 to 3 are quashed.

The petition is disposed of.

ANU MALHOTRA, J

FEBRUARY 13, 2018/sv

IN THE HIGH COURT OF DELHI: NEW DELHI

Item No. 67

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**CW-2 SI RAMKESH POLICE STATION PARLIAMENT STREET
ON S.A.**

I identify the petitioners No.1 to 3, *namely*, Arjun Dewan, Kedar Nath Dewan and Sharad Dewan, on the basis of the documents produced as being the accused and I also identify the complainant Ms.Neha Jain, in relation to the FIR No.505/2015, under Sections 498A Indian Penal Code, 1860, Read with Section 3,4 Dowry Prohibition Act, Police Station Bariyatu, Ranchi.

RO & AC

13.02.2018

ANU MALHOTRA, J

IN THE HIGH COURT OF DELHI: NEW DELHI

Item No. 67

Crl. M.C. 693/2018

ARJUN DEWAN & ORS. Vs. STATE & ANR.

13.02.2018

CW-1 MS NEHA JAIN D/O ANIL KUMAR JAIN, R/O BARIATU ROAD, P.O.& P.S. BARIATU, TOWN & DISTRICT, RANCHI, JHARKHAND

ON S.A.

I have done masters in product designing and I work as an interior designer.

I identify the petitioners No.1, 2 and 3, *namely*, Arjun Dewan, Kedar Nath Dewan and Sharad Dewan as the accused of the FIR No.505/2015, under Sections 498A Indian Penal Code, 1860, Read with Section 3,4 Dowry Prohibition Act, Police Station Bariyatu, Ranchi. There is no other person against whom I had made allegations in the said FIR. The proofs of identity of the petitioners No.1 to 3 original Driving Licence of the petitioner No.1 No.RJ-14/DLC/05/421642 being EX.CW-1/A, Aadhar Card of Petitioner No.2 814287110896 being EX.CW-1/B, and Election Commission Identity Card of Petitioner No.3 bearing No. WHK/0140020 (the photocopy of the same be filed) and the Aadhar Card of the respondent No.2 bearing No.361864370903 being Ex.CW-1/D respectively have been produced (Originals seen & returned.).

A settlement has since been arrived at between me and the petitioner at the Counselling Cell, Patiala House Courts and the Memorandum of Understanding bears my signatures thereof at point A on EX.CW-1/E. The marriage between me and the petitioner No.1 has since been dissolved vide a decree of divorce through mutual consent dated 30.10.2017 under Section

13 B (2) of the Hindu Marriage Act, 1955 in HMA No.878/2017 of the Principal Judge, Family Court, Patiala House Courts, New Delhi. The certified of which is on the record as EX.CW-1/F. All claims between me and the petitioners have since been settled and pursuant to the settlement I have already received an amount of Rs.60,00,000/- from the petitioners previously and the balance sum of Rs.40,00,000/- has been handed over to me today by the petitioners in the form of Demand Drafts bearing Nos. 500946 dated 5.2.2018 for a sum of Rs.5,00,000/- being EX.CW-1/G, 500947 dated 5.2.2018 for a sum of Rs.22,00,000/- being EX.CW-1/H, 004702 dated 7.2.2018 for a sum of Rs.2,00,000/- being EX.CW-1/I and 004703 dated 7.2.2018 for a sum of Rs.11,00,000/- being EX.CW-1/J, all drawn on ICICI bank in my favour respectively. There are now no claims of mine left against the petitioners. There is no child born of the wedlock. I thus do not oppose the prayer made by the petitioners seeking quashing of the FIR No.505/2015, under Sections 498A Indian Penal Code, 1860, Read with Section 3 and 4 of the Dowry Prohibition Act, Police Station Bariyatu, Ranchi.

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

RO & AC
13.02.2018

ANU MALHOTRA, J