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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 5472/2017**
ASHUTOSH KUMAR & ORS Petitioners
Through: Mr. J.M. Akbar, Advocate.
versus

STATE (GOVT OF NCT OF DELHI) & ANR Respondents
Through: Mr. Panna Lal Sharma, APP for State
with SI Ashwani Kumar, PS Jyoti
Nagar.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **16.04.2018**

Vide the present petition, the petitioners seek quashing of the FIR No.177/2015, PS Jyoti Nagar under Sections 498-A/406/34 of the Indian Penal Code, 1860 submitting to the effect that a settlement has been arrived at between the parties and all the disputes between the petitioner no. 1 and the respondent no. 2 have since been settled.

The Investigating Officer of the case present today in the Court and has identified the petitioner no. 1 Sh. Ashutosh Kumar s/o Sh. Nahar Singh, petitioner no. 2 Sh. Nahar Singh s/o late Sh. Devi Singh, petitioner no. 3 Smt. Jai Wati w/o Sh. Nahar Singh, petitioner no. 4 Kumari Anshu Priya, d/o Sh. Nahar Singh, petitioner no. 5 Mr. Lovenish Kumar s/o Sh. Nahar Singh and petitioner no. 6 Smt. Kavita w/o Sh. Lovenish Kumar as being the six accused persons arrayed in the FIR No.177/2015, PS Jyoti Nagar under Sections 498-A/406/34 of the Indian Penal Code, 1860 and has stated that there are no other

persons arrayed as accused in the said FIR. He has also identified the respondent no. 2 Ms. Suman as being the complainant thereof. The proofs of identity of the petitioner nos. 1 to 6 and of the respondent no. 2 in the form of original documents produced by them, photocopies of the same are on the record as Ex. CW1/A to Ex. CW1/F and Ex.CW2/E respectively, originals of which have been seen and returned.

The respondent no. 2 in her examination on oath by the court has affirmed having sworn her affidavit Ex. CW2/D and the settlement agreement dated 21.03.2017 Ex.CW2/A arrived at the Delhi High Court Mediation & Conciliation Centre voluntarily of her own accord without any duress, coercion or pressure from any quarter. She has stated that there is no child born out of the wedlock between her and the petitioner no. 1 and that the marriage between her and the petitioner no. 1 has been dissolved by a decree of divorce through mutual consent under Section 13 (B)(2) of the HMA in HMA No. 1385/17 vide a decree dated 17.11.2017, certified copy of which is on the record as Ex. CW2/C issued by the Court of the Principal Judge, Family Court, Shahdara KKD Courts.

The respondent no. 2 has testified to the effect that in terms of the settlement Ex.CW2/A arrived arrived at between herself and the petitioner, a total sum of Rs. Rs. 11,00,000/- (Eleven lakhs) was agreed to be paid to her by the petitioners, out of which a sum of Rs. 6,00,000/- (Six lakhs) has been received by her previously and a balance sum of Rs. 5,00,000/- (Five Lakhs) has been handed over to

her now today in the Court by the petitioners vide a demand draft bearing No.503945 dated 16.04.2018 drawn on the ICICI Bank in her favour, photocopy of which is on the record as Ex. CW2/B and has stated that there are now no claims of hers left against the petitioners.

On behalf of the State, there is no opposition to the prayer made by the petitioners seeking quashing of the FIR in question in view of the settlement arrived at between the parties.

The respondent no. 2 is well educated and works as an Assistant Professor at Janakpuri. It is apparent that the statement made by the respondent no. 2 has been made by her after knowing all the implications that may arise due to the statement made by her and as all the disputes due to the matrimonial discord between the petitioner no. 1 and the respondent no. 2 have been settled and that the marriage between the petitioner no. 1 and the respondent no. 2 has been dissolved, it is considered appropriate to put a quietus to the litigation 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.]”

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 petitioners seeking quashing of FIR No.177/2015, PS Jyoti Nagar under Sections 498-A/406/34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners. In view thereof the FIR No.177/2015, PS Jyoti Nagar under Sections 498-A/406/34 of the Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners are quashed.

The petition is disposed of.

ANU MALHOTRA, J

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ASHUTOSH KUMAR & ORS versus

STATE & ANR

Statement of CW1 : Investigating Officer SI Ashwani Kumar, PS Jyoti Nagar.

ON S.A.

I identify the petitioner no. 1 Sh. Ashutosh Kumar s/o Sh. Nahar Singh, petitioner no. 2 Sh. Nahar Singh s/o late Sh. Devi Singh, petitioner no. 3 Smt. Jai Wati w/o Sh. Nahar Singh, petitioner no. 4 Kumari Anshu Priya, d/o Sh. Nahar Singh, petitioner no. 5 Mr. Lovenish Kumar s/o Sh. Nahar Singh and petitioner no. 6 Smt. Kavita w/o Sh. Lovenish Kumar as being the six accused persons arrayed in the FIR No.177/2015, PS Jyoti Nagar under Sections 498-A/406/34 of the Indian Penal Code, 1860 and there are no other persons arrayed as accused in the said FIR. I also identify the respondent no. 2 Ms. Suman as being the complainant thereof. The proof of identity of the petitioner nos. 1 to 6 in the form of photocopies of their Aadhar Cards are on the record as Ex. CW1/A to Ex. CW2/F respectively and the photocopy of the Aadhar Card of the respondent no. 2 is on the record already as Ex. CW2/E. (Originals seen and returned.)

**RO & AC
APRIL 16, 2018**

ANU MALHOTRA, J

CRL.M.C. 5472/2017

ASHUTOSH KUMAR & ORS versus

STATE & ANR

Statement of CW2 : Smt. Suman, d/o Late Sh. Karam Singh, aged 37 years, r/o H.NO. B-924, East of Loni Road, MIG Flats, Shahdara, Delhi.

ON S.A.

I do not oppose the prayer made by the petitioner no. 1 Sh. Ashutosh Kumar, petitioner no. 2 Sh. Sh. Nahar Singh, petitioner no. 3 Smt. Jai Wati , petitioner no. 4 Kumari Anshu Priya, petitioner no. 5 Mr. Lovenish Kumar and petitioner no. 6 Smt. Kavita seeking quashing of the FIR No.177/2015, PS Jyoti Nagar under Sections 498-A/406/34 of the Indian Penal Code, 1860 nor do I want the petitioners to be punished in relation thereto in view of the settlement arrived at between me and the petitioners.

In view of the settlement arrived at between me and the petitioners at the Delhi High Court Mediation & Conciliation Centre vide a settlement agreement dated 21.03.2017 bears my signatures thereon on each page thereof at point A on Ex. CW2/A, pursuant to which a total sum of Rs. 11,00,000/- (Eleven lakhs) was agreed to be paid to me by the petitioners, out of which a sum of Rs. 6,00,000/- (Six lakhs) has been received by me previously and a balance sum of Rs. 5,00,000/- (Five Lakhs) has been handed over to me now today in the Court by the petitioners vide a demand draft bearing No.503945 dated 16.04.2018 drawn on the ICICI Bank in my favour, photocopy of which is on the record as Ex. CW2/B. There are now no claims of mine left against the petitioners. There is no child born out of the wedlock between me and the petitioner no. 1. The marriage between me and the petitioner no. 1 has since been dissolved vide a decree of divorce

through mutual consent under Section 13(B) (2) of the HMA in HMA No. 1385/817 vide a decree dated 17.11.2017 of the Court of the Principal Judge, Family Court, Shahdara KKD Courts, certified copy of which is on the record as Ex. CW2/C.

My affidavit annexed to the petition bears my signatures thereon at points A & B on Ex. CW2/D which I have signed voluntarily of my own accord.

I have done my M.Tech in Computer Science and work as an Assistant Professor at Janakpuri. I have brought my original Aadhar Card, photocopy of which is on the record as Ex. CW2/E.

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

RO & AC
APRIL 16, 2018

ANU MALHOTRA, J