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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 5485/2017 & CRL.M.A. 21338/2017
RAHUL GAKHAR & ORS Petitioner
Through: Mr. Deepika Madan, Adv.

versus

THE STATE GOVT OF NCT OF DELHI & ORS..... Respondent
Through: Mr. Kamal Kr. Ghei, APP for State
with SI Lalit Chauhan, PS Timar Pur.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

03.01.2018

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Vide the present petition, the petitioner seeks quashing of FIR No.376/2015, registered at PS Timar Pur, 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 and that the marriage between the petitioner no. 1 and the respondent no.2 has since been dissolved vide a decree of divorce through mutual consent.

The Investigating Officer of the case present today in Court has identified the petitioner nos. 1 to 3 arrayed as accused in FIR No.376/2015, registered at PS Timar Pur and has also identified the complainant present today in Court. The proofs of identity of the petitioner nos. 1 to 3 and of the respondent no. 2 have been produced in the form of their Aadhar Cards photocopies of which are on the record as Ex. CW1/A to Ex. CW1/D respectively originals of which have been seen and returned.

The respondent no.2, the complainant of the said FIR in her examination on oath by the Court has testified to having signed the affidavit annexed to the petition thereon at point-A & B on Ex.CW2/A and has further testified to the effect that she has also signed the Memorandum of Understanding dated 16.02.2017 thereon on each page with the copy of the same is on the record as Ex. CW2/B, voluntarily of her own accord and stated that pursuant to the settlement arrived at between her and the petitioner no.2, the minor child born of the wedlock between her and the petitioner no.1 aged about three and a half years, is in her custody and shall continue to live in her custody. She further testified to the effect that in terms of the Memorandum of Understanding dated 16.02.2017, she has already received a sum of Rs. 8 lakhs previously and the balance sum of Rs. 5 lakhs has been handed over to her in the Court today by the petitioner vide the demand draft bearing no. 000370 dated 30.12.2017 in her favour drawn on the Axis Bank Ltd. (Copy of the said demand draft has been placed on the record by the petitioner). She further stated that now no claims of hers are left against the petitioner no.1. She has further testified to the effect that she does not oppose the prayer made by the petitioners seeking quashing of the FIR No.376/2015, registered at PS Timar Pur, under Sections 498A/406/34 Indian Penal Code, 1860 nor does she want the petitioner nos. 1 to 3 to be punished in relation thereto in view of the settlement arrived at between her and the petitioners.

The respondent no.2 is apparently well educated, she being an MBA (Finance) and works as an Assistant Manager.

In view of the statement made by the respondent no.2, there is no reason to disbelieve her statement that she has arrived at the settlement

voluntarily of her own accord without any duress, coercion or pressure from any quarter.

Learned APP for the State in the circumstances in view of the settlement arrived at between the parties does not oppose the prayer made by the petitioner.

In view of the submissions made by the respondent No.2 duly identified by the Investigating Officer of the case and taking into account the factum that the FIR is indicated to have been registered in view of a matrimonial discord between the petitioner no.1 and the respondent no.2 which has since been resolved vide the decree of divorce through mutual consent on 13.11.2017 under Section 13B(2) of the Hindu Marriage Act, 1955 in HMA No. 1442/17 of the Court of Principal Judge, Family Court, District North, Rohini, New Delhi (the copy of the same being on the record as Ex. CW2/C) and the statement made by the respondent no.2 and the Memorandum of Understanding on record as Ex.CW2/B, it is considered appropriate for maintenance of peace and harmony between the petitioners and the respondent no.2 to allow the prayer made by the petitioners seeing quashing of the FIR in question in view of 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)

In view thereof the FIR No.376/2015, registered at PS Timar Pur, under Sections 498A/406/34 Indian Penal Code, 1860 all the consequential proceedings emanating therefrom against the petitioner no.1 Shri Rahul Gakhar, s/o Shri Ashok Kumar, petitioner no. 2 Smt. Prabha Rani, w/o Shri Ashok Kumar, petitioner no.3 Shri Ashok Kumar s/o Shri Tikam Chand are quashed.

The petition is disposed of.

ANU MALHOTRA, J

JANUARY 03, 2018/vm