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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 124/2018

SANJAY HOODA & ORS

..... Petitioner

Through: Mr. Naveen Chauhan, Adv.

versus

STATE (GOVT OF NCT OF DELHI) & ANR Respondent

Through: Mr. Izhar Ahmad, APP for State with
Insp. Arvind Kumar, PS Jaffarpur
Kalan.

Mr. Dhan Singh Nagar, Adv. for R-2
with R-2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

05.03.2018

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Vide the present petition, the petitioner seeks quashing of FIR No.60/2012, registered at PS Jaffarpur Kalan, under Sections 498A/406/34 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom submitting to the effect that a settlement has been arrived at between the parties during the course of proceedings before the MM-01 (Mahila Court), South-West on 06.12.2016 in relation to FIR 60/12 PS Jaffarpur Kalan. It has also been submitted on behalf of the petitioners that the marriage between the petitioner no.1 and the respondent no.2 has been dissolved vide a decree of divorce through mutual consent.

The Investigating Officer of the case present today in Court has identified the petitioner no. 1 Shri Sanjay Hooda, s/o Shri Om Prakash, petitioner no.2 Shri Om Prakash, s/o Shri Rampat, petitioner no.3 Smt. Chandresh, w/o Shri Om Prakash on the basis of identity proofs produced

by them, as being the accused arrayed in FIR No.60/2012, registered at PS Jaffarpur Kalan, under Sections 498A/406/34 Indian Penal Code, 1860 and has also identified the respondent no.2 Ms. Alisha Dagar present today in Court as being the complainant thereof. The proofs of identity of the petitioner nos. 1 to 3 and of the respondent no. 2 in the form of photocopies of their Aadhar Cards are on the record as Ex. CW1/A and Ex. CW1/D respectively, originals of which have been seen and returned.

The respondent no.2 in her examination on oath by the Court has testified to having sworn her affidavit annexed to the petition as Ex.CW2/A voluntarily of her own accord and has testified to the dissolution of the marriage with the petitioner no. 1 vide a decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 18.11.2017 of the Court of the Principal Judge, Family Court, South-West District, Dwarka, New Delhi in HMA No. 3164/17, certified copy of which is on the record as Ex. CW2/B. She has further testified to the effect that in terms of the settlement arrived at between her and the petitioners on 06.12.2016 in the Court of MM-01 (Mahila Court), South-West, a total sum of Rs. 2.10 lacs was to be paid to her by the petitioners, which has all since been paid by the petitioners to her and that there are no claims of hers left against the petitioners now. She has further testified to the effect that there is no child born of the wedlock between her and the petitioner no.1 and that she is a Post-Graduate in Mechanical Engineering and is presently preparing for the Bank Probationary Officers Examinations. She has further testified to the effect that she does not oppose the prayer made by the petitioners seeking quashing of the FIR in question and does not want the petitioners to be punished in relation to the offences punishable

under Section 498A/406/34 Indian Penal Code, 1860.

Learned APP for the State submits that in the circumstances of the case, there is no opposition to the prayer made by the petitioner seeking quashing of the FIR in question.

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

ought to be quashed....”

(emphasis supplied)

As apparently the FIR in question emanated from a matrimonial discord between the petitioner no.1 and the respondent no.2, which matrimonial discord has since been resolved vide dissolution of the marriage between the petitioner no.1 and the respondent no.2 already vide a decree of divorce through mutual consent, as adverted to hereinabove, as there is no reason to disbelieve the statement made by the respondent no.2 who is apparently well-educated that she has arrived at a settlement with the petitioners voluntarily of her own accord without any duress, coercion or pressure from any quarter and taking into account the non-opposition on behalf of the State, it is considered appropriate to put a quietus to the litigation between the petitioners and the respondent no.2 for maintenance of peace and harmony between the petitioners and the respondent no.2. In view thereof the FIR No.60/2012, registered at PS Jaffarpur Kalan, under Sections 498A/406/34 Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner nos. 1, 2 & 3 are quashed.

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

ANU MALHOTRA, J

MARCH 05, 2018

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CRL.M.C. 124/2018

SANJAY HOODA & ORS

Vs. STATE (GOVT OF NCT OF DELHI) & ANR

Statement of CW1 : SI Arvind Kumar, PS Jaffarpur Kalan, Delhi.

ON S.A.

I identify the petitioner no. 1 Shri Sanjay Hooda, s/o Shri Om Prakash, petitioner no.2 Shri Om Prakash, s/o Shri Rampat, petitioner no.3 Smt. Chandresh, w/o Shri Om Prakash on the basis of identity proofs produced by them, as being the accused arrayed in FIR No.60/2012, registered at PS Jaffarpur Kalan, under Sections 498A/406/34 Indian Penal Code, 1860. I also identify the respondent no.2 Ms. Alisha Dagar present today in Court as being the complainant thereof. The proofs of identity of the petitioner nos. 1 to 3 and of the respondent no. 2 in the form of photocopies of their Aadhar Cards are on the record as Ex. CW1/A and Ex. CW1/D respectively. (Originals seen and returned.)

Only the petitioner nos. 1 to 3 are arrayed as accused in the FIR in question.

ANU MALHOTRA, J

RO & AC

MARCH 05, 2018

Statement of CW2 : Ms. Alisha Dagar, d/o Shri Jagminder Dagar, aged 27 years and 2 months, r/o H.No. 141, Choudhary Mohalla, Issapur, New Delhi 110073.

ON S.A.

I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.60/2012, registered at PS Jaffarpur Kalan, under Sections 498A/406/34 Indian Penal Code, 1860.

My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/A, which I have signed voluntarily of my own accord without any duress, pressure or coercion from any quarter. A settlement has been arrived at between me and the petitioners and the marriage between me and the petitioner no.1 has been dissolved vide decree of divorce through mutual consent under Section 13(B)(2) of the Hindu Marriage Act, 1955 vide decree dated 18.11.2017 of the Court of the Principal Judge, Family Court, South-West District, Dwarka, New Delhi in HMA No. 3164/17, certified copy of which is on the record as Ex. CW2/B.

In terms of the settlement arrived at between me and the petitioners on 06.12.2016 in the Court of MM-01 (Mahila Court), South-West, a total sum of Rs. 2.10 lacs was to be paid to me by the petitioners, which has all since been paid by the petitioners to me and there are no claims of mine left against the petitioners now. There is no child born of the wedlock between me and the petitioner no.1.

As no claims being left against the petitioners, I do not oppose the

prayer made by the petitioners seeking quashing of the FIR in question nor do I want the petitioner nos. 1, 2 & 3 to be punished in relation thereto.

I am a Post-Graduate in Mechanical Engineering and presently preparing for Bank Probationary Officer Examinations.

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

ANU MALHOTRA, J

**RO & AC
MARCH 05, 2018**