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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 135/2018**

AMIT KUMAR SINGH Petitioner
Through: Mr.Sandeep Kaushik, Advocate

versus

THE STATE GOVT OF NCT OF DELHI Respondent
Through: Mr. Kamal Kr. Ghei, APP for State
with ASI Mahavir Singh, PS Swaroop
Nagar
Counsel for complainant (appearance
not given) with Complainant in
person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **11.01.2018**

CrI.M.A. No. 587/2018 (Exemption)

This is an application filed on behalf of the petitioner for exemption from filing certified copies of the annexures.

Exemption allowed, subject to just exceptions.

CrI.M.C. No.135/2018

Vide the present petition, the petitioner seeks quashing of FIR No.343/2015, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Swaroop Nagar submitting *inter alia* to the effect that a settlement has been arrived at between the petitioner and the respondent No.2 vide a memorandum of understanding dated 3.5.2017 (EX.CW-2/B) executed between the petitioner and the respondent No.2, pursuant to which a total sum of Rs.7,00,000/- is

stated to have already paid by the petitioner to the respondent No.2 and the balance sum of Rs.3,00,000/- had been agreed to be paid at the time of quashing of the FIR.

The Investigating Officer of the case is present and has identified the petitioner and the respondent No.2 present in the Court today. Proofs of identity have been produced by the petitioner and the respondent No.2.

As per the averments in the FIR there are other persons, *namely*, Vipin Kumar Singh, Kumar Alok, Poonam Singh and Neetu Singh named in the FIR in relation to whom it has been submitted by the learned APP for the State that the said accused persons were not charge sheeted and were arrayed in column No.12.

The respondent No.2 on her examination on oath by the Court has affirmed having signed her affidavit (EX.CW-2/A) annexed to the petition and also testified to having signed the Memorandum of Understanding dated 3.5.2017 executed between her and the petitioner voluntarily of her own accord without any duress, coercion or pressure from any quarter. She further testified to the effect that pursuant to the settlement arrived at between her and the petitioner a sum Rs. 7,00,000/- (Rs.Seven lakhs only) has already been received by her previously and the balance sum of Rs.3,00,000/- (Rs.Three Lakhs only) has been received by her today in Court vide demand draft bearing No. 638955 dated 6.1.2018 in her favour drawn on the Punjab National Bank, the photocopy of which is on the record as Ex.CW-2/C and now there are no claims of hers left against the petitioner.

Inter alia, the respondent No.2 has testified to the effect that the marriage between her and the petitioner has since been dissolved vide a decree of divorce through mutual consent dated 17.11.2017 under Section 13 B (2) of the Hindu Marriage Act, 1955 in HMA No.1472/2017 of the Principal Judge, Family Court, District North, Rohini Courts and the copy of the decree of divorce is Ex.CW2/D. She also states that in view of the settlement arrived at between her and the petitioner, she does not oppose the prayer made by the petitioner seeking quashing of the FIR No.343/2015, PS Swaroop Nagar, under Sections 498A/406/34 Indian Penal Code, 1860, nor she does want the petitioner to be punished nor she does seek any action against any other accused, *namely*, Vipin Kumar Singh, Kumar Alok, Poonam Singh and Neetu Singh, named in the above stated FIR as all disputes between her and these persons have already been settled.

Learned APP for the State also, in the facts and circumstances, does not oppose the prayer made by the petitioner seeking quashing of the No.343/2015, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Swaroop Nagar.

In view of the statement made by the respondent No.2 and 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 petitioner nor any other persons named in the said FIR as apparently indicated to have been registered due to a matrimonial discord which has since been resolved vide a

decree of divorce through mutual consent dated 17.11.2017 under Section 13 B (2) of the Hindu Marriage Act, 1955 in HMA No.1472/2017 of the Principal Judge, Family Court, District North, Rohini Courts (the copy of the decree of divorce being Ex.CW2/D), 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. In view thereof the FIR No.343/2015, Police Station Swaroop Nagar, under Sections 498A/406/34 Indian Penal Code, 1860, and all consequential proceedings emanating therefrom against the petitioner and all others named in the said FIR under Sections 498A/406/34 Indian Penal Code, 1860, and all consequential proceedings emanating therefrom are quashed against the petitioner.

The petition is disposed of.

ANU MALHOTRA, J

JANUARY 11, 2018/sv

IN THE HIGH COURT OF DELHI: NEW DELHI

Item No. 26

CrI. M.C. 135/2018

AMIT KUMAR SINGH Vs. STATE & ANR.

11.01.2018

**CW-1 ASI MAHAVIR PRASAD POLICE STATION SWAROOP
NAGAR
ON S.A.**

I identify the petitioners *namely*, Amit Kumar Singh as the accused and the respondent No.2 Sonam Singh, the complainant of the FIR No.343/2015, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Swaroop Nagar present in the Court today. The original PAN Card of the petitioner bearing No.DUXPS7205H, has been produced, a photocopy of the same be placed on the record. The photocopy of the Aadhar Card of the respondent No.2 bearing No.990634084983 is Ex.CW-1/A (Original seen & returned.).

The other accused persons, namely, Vipin Kumar Singh, Kumar Alok, Poonam Singh and Neetu Singh, named in the FIR were not charge sheeted and were arrayed in column No.12.

**RO & AC
11.01.2018**

ANU MALHOTRA, J

IN THE HIGH COURT OF DELHI: NEW DELHI

Item No. 26

CrI. M.C. 135/2018

AMIT KUMAR SINGH Vs. STATE & ANR.

11.01.2018

**CW-2 SONAM SINGH D/O SHAMBHU SHARAN SINGH AGED 27
YEARS R/O 12/36, B BLOCK, KAUSHIK ENCLAVE BURARI,
DELHI
ON S.A.**

I am B.Sc in Fashion Designing.

My affidavit dated 19.12.2017 annexed with the petition, bears my signatures at points A and B on Ex.CW-2/A.

The certified copy of the Memorandum of Understanding dated 3.5.2017 between the petitioner and myself bears my signatures thereon at point A on each page thereof on EX. CW-2/B which Memorandum of Understanding has been signed by me voluntarily of my own accord without any duress, coercion or pressure from any quarter.

Pursuant to the settlement arrived at between me and the petitioner I have since received a sum of Rs.7,00,000/- previously and the balance sum of Rs.3,00,000/- has been received by me today in Court vide demand draft bearing No. 638955 dated 6.1.2018 in my favour drawn on Punjab National Bank, the photocopy of which is on the record as Ex.CW-2/C. Now there are no claims of mine left against the petitioner.

The marriage between me and the petitioner has since been dissolved vide a decree of divorce through mutual consent dated 17.11.2017 under Section 13 B (2) of the Hindu Marriage Act, 1955 in HMA No.1472/2017 of the Principal Judge, Family Court, District North, Rohini Courts copy of the decree of divorce is Ex.CW2/D.

In view of the settlement arrived at between me and the petitioner, I do not oppose the prayer made by the petitioner seeking quashing of the No.343/2015, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Swaroop Nagar nor I do want the petitioner to be punished nor I do seek any action against any other accused, namely, Vipin Kumar Singh, Kumar Alok, Poonam Singh and Neetu Singh, named in the above stated FIR as all disputes between me and these persons have already been settled. I thus do not oppose the prayer made vide the present petition CrI.M.C. No.135/2018 seeking quashing of FIR No. 343/2015, under Sections 498A/406/34 Indian Penal Code, 1860, Police Station Swaroop Nagar .

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

RO & AC
11.1.2018

ANU MALHOTRA, J