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

+ **CRL.M.C. 334/2018 & CRL.M.A. 1269/2018**

BHUPENDRA & ORS

..... Petitioner

Through

Mr. S.C. Rajpal, Mr. Varun Rajpal,
Mr. Sanjay Chaudhary, Advs. for
petitioners with petitioners in person.

versus

THE STATE & ANR

..... Respondent

Through

Mr. Izhar Ahmad, APP for State with
WSI Vinita Kaushik, PS Sadar Bazar.
Mr. Amar Pal, Adv. for R2 with R2 in
person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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22.01.2018

CRL.M.A. 1269/2018

CRL.M.A. 1269/2018 is an application filed on behalf of the petitioner seeking exemption from filing certified copies of the annexures. The same is allowed, subject to just exceptions.

The application is disposed of.

CRL.M.C. 334/2018

Vide the present petition, the petitioner no. 1 Bhupendra s/o Sh. Kharak Singh, the petitioner no. 2, Smt. Shisho Devi w/o Sh. Kharak Singh, the petitioner no. 3 Kharak Singh s/o Late Sh. Durjan Singh, the petitioner no. 4 Vijay Singh s/o Sh. Kharak Singh, the petitioner no. 5 Raj Bala w/o Sh. Pritam Singh and the petitioner no. 6 Pritam Singh s/o Sh. Vishal Singh seek quashing of the FIR No. 97/16, registered at PS Sadar Bazar, under Sections 498A/406/34 of the Indian Penal Code, 1860 registered on the

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complaint of the respondent no. 2 Monika @ Mamta d/o Sh. Babu Lal submitting *inter alia* to the effect that a settlement has been arrived at between the petitioners and the respondent no. 2 in as much as the marriage between the respondent no. 2 and the petitioner no.1 has since been dissolved vide the decree of divorce through mutual consent under Section 13 B (2) of the Hindu Marriage Act, 1955 vide decree dated 05.06.2017 in HMA No. 695/2017 of the Court of the before the Principal Judge, Family Court, Central, Tis Hazari Courts, Delhi, the copy of which is on record as Ex.CW2/C, which was arrived at pursuant to a settlement dated 22.10.2016 between the parties before the Principal Judge, Family Court, Central, Tis Hazari Courts Counselling Cell, copy of which is on record as Ex.CW2/B.

Learned APP for the State also in the circumstances of the case does not oppose the prayer made by the petitioners seeking quashing of the FIR No. 97/16, registered at PS Sadar Bazar, under Sections 498A/406/34 of the Indian Penal Code, 1860.

The photocopy of the proof of identity of the petitioners and the respondents no. 2 are on the record as Ex.CW1/A to Ex.CW1/G, originals of which have been seen and returned, on the basis of which the Investigating Officer of the case has identified the petitioner no. 1 Bhupendra s/o Sh. Kharak Singh, the petitioner no. 2 Smt. Shisho Devi w/o Sh. Kharak Singh, the petitioner no. 3 Kharak Singh s/o Late Sh. Durjan Singh, the petitioner no. 4 Vijay Singh s/o Sh. Kharak Singh, the petitioner no. 5 Raj Bala w/o Sh. Pritam Singh and the petitioner no. 6 Pritam Singh s/o Sh. Vishal Singh as being the only accused in relation to the FIR No. 97/16, registered at PS Sadar Bazar, under Sections 498A/406/34 of the Indian Penal Code, 1860.

She has also identified the respondent no. 2 Monika @ Mamta present today in the court i.e. the complainant of the FIR No. 97/16, registered at PS Sadar Bazar, under Sections 498A/406/34 of the Indian Penal Code, 1860.

The respondent no. 2 is also present today in the Court and has been examined by the Court and she has testified that her affidavit annexed to the petition bears her signature thereon at points-A and B on Ex.CW2/A, which she has signed voluntarily of her own accord without any duress, pressure or coercion from any quarter. She has further testified to the effect that a settlement dated 22.10.2016 has been arrived at between the parties before the Principal Judge, Family Court, Central, Tis Hazari Courts Counselling Cell, which bears her signatures as visible thereon at points-A on each page on Ex.CW2/B, which she has signed voluntarily of her own accord without any duress, pressure or coercion from any quarter. She has further testified that the marriage between herself and the petitioner no.1 has since been dissolved vide a decree of divorce through mutual consent under Section 13 B (2) of the Hindu Marriage Act, 1955 vide decree dated 05.06.2017 in HMA No. 695/2017 of the Court of the before the Principal Judge, Family Court, Central, Tis Hazari Courts, Delhi, the copy of which is on record as Ex.CW2/C and that pursuant to the said settlement arrived at between the parties, a total sum of Rs.1 lakh was agreed to be paid by the petitioners and out of which a sum of Rs.80,000/- has already been received by her and the balance sum of Rs.20,000/- in terms of Clause-6 of the said settlement of the Ex.CW2/B has been received today by her in the Court. She has further testified that now there are no claims of hers left against the petitioners and that in terms of the said settlement, the minor child shall remain in the

custody of the petitioner no. 1 qua whom she has visitation rights. The respondent no. 2 has further testified to the effect that thus she does not oppose the prayer made by the petitioners seeking quashing of the FIR No. 97/16, registered at PS Sadar Bazar, under Sections 498A/406/34 of the Indian Penal Code, 1860 nor does she want the petitioner nos. 1 to 6 to be punished. She has further testified that she has studied till 12th class and she does some works to earn her livelihood and that she has made this statement voluntarily of her own accord without any duress, pressure or coercion from any quarter.

Taking into account the statement made by the respondent no. 2, there appears no reason to disbelieve the said statements made by the respondent no. 2 that she has arrived at a settlement voluntarily of her own accord without any duress or coercion from any quarter. Thus to maintain peace and harmony 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.]”

(emphasis supplied)

and in the case of *Jitendra Raghuvanshi & Ors. Vs. Babita Raghuvanshi & Anr.* (2013) 4 SCC 58, wherein the Supreme Court in respect of the matrimonial disputes has specifically held as follows:-

“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 thus considered appropriate in the interest of justice that the prayer made by the petitioners seeking quashing of the FIR No. 97/16, registered at PS Sadar Bazar, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom is allowed and thus the FIR No. 97/16, registered at PS Sadar Bazar, under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioner no. 1 Bhupendra s/o Sh. Kharak Singh, the petitioner no. 2, Smt. Shisho Devi w/o Sh. Kharak

Singh, the petitioner no. 3 Kharak Singh s/o Late Sh. Durjan Singh, the petitioner no. 4 Vijay Singh s/o Sh. Kharak Singh, the petitioner no. 5 Raj Bala w/o Sh. Pritam Singh and the petitioner no. 6 Pritam Singh s/o Sh. Vishal Singh are quashed.

The petition is disposed of.

ANU MALHOTRA, J

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BHUPENDRA & ORS versus THE STATE & ANR

Statement of CW1 : WSI Vinita Kaushik, PS Sadar Bazar, Delhi

ON S.A.

I identify the petitioner no. 1 Bhupendra s/o Sh. Kharak Singh, the petitioner no. 2 Smt. Shisho Devi w/o Sh. Kharak Singh, the petitioner no. 3 Kharak Singh s/o Late Sh. Durjan Singh, the petitioner no. 4 Vijay Singh s/o Sh. Kharak Singh, the petitioner no. 5 Raj Bala w/o Sh. Pritam Singh and the petitioner no. 6 Pritam Singh s/o Sh. Vishal Singh as being the only accused in relation to the FIR No. 97/16, registered at PS Sadar Bazar, under Sections 498A/406/34 of the Indian Penal Code, 1860. I also identify the respondent no. 2 Monika @ Mamta present today in the court i.e. the complainant of the FIR No. 97/16, registered at PS Sadar Bazar, under Sections 498A/406/34 of the Indian Penal Code, 1860. Photocopies of the proof of identity of the petitioners and respondent no. 2 are on the record, which are Ex.CW1/A to Ex.CW1/G respectively (originals of which have been seen and returned).

ANU MALHOTRA, J

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BHUPENDRA & ORS versus THE STATE & ANR

**Statement of CW2 : Monika @ Mamta d/o Sh. Babu Lal, aged 31 years
r/o H. No. 4280, Arya Pura, Sabji Mandi, Roshan Ara Raod, Delhi.**

ON S.A.

My affidavit annexed to the petition bears my signature thereon at points-A & B on Ex.CW2/B. A settlement 22.10.2016 arrived at between me and the petitioners at before the Principal Judge, Family Court, Central, Tis Hazari Courts Counselling Cell bears my signatures as visible thereon at points-A on each page on Ex.CW2/B which I have signed voluntarily of my own accord without any duress or coercion from any quarter. The marriage between me and the petitioner no.1 has since been dissolved vide the decree of divorce through mutual consent under Section 13 B (2) of the Hindu Marriage Act, 1955 vide decree dated 05.06.2017 in HMA No. 695/2017 of the Court of the before the Principal Judge, Family Court, Central, Tis Hazari Courts, Delhi, the copy of which is on record as Ex.CW2/C. Pursuant to the said settlement arrived at between me and the petitioners, a total sum of Rs.1 lakh was agreed to be paid by the petitioners, out of which a sum of Rs.80,000/- has already been received by me and the balance sum of Rs.20,000/- in terms of Clause-6 of the said settlement Ex.CW2/B has been received today by me in the Court. Now there are no claims of mine left against the petitioners. In terms of the settlement arrived at between me and the petitioner, the minor child shall remain the custody of the petitioner no. 1 qua whom I have visitation rights. I thus do not oppose the prayer made by the petitioners seeking quashing of the FIR No. 97/16, registered at PS Sadar

Bazar, under Sections 498A/406/34 of the Indian Penal Code, 1860 nor do I want the petitioner nos. 1 to 6 to be punished in relation thereof in view of the settlement arrived at between me and the petitioners. I have studied till 12th class and I do some works to earn my livelihood. I have made this statement voluntarily of my own accord without any duress, pressure or coercion from any quarter.

ANU MALHOTRA, J

**RO & AC
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