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

+ **CRL.M.C. 6610/2019 & CRL.M.A. 43191/2019**

ANIL & ORS.

..... Petitioners

Through: Petitioner nos. 1 & 2 in person with
Mr. Sana-Ur-Rehman, Advocate.

versus

STATE & ANR.

..... Respondents

Through: Mr. Raghuvinder Varma, APP for
State with W/SI Saroj, PS OPL Unit.
R-2 in person with Mr. Rashid Islam,
Advocate for R-2.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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28.01.2020

CRL.M.A. 43191/2019 (Ex.)

Exemption allowed subject to all just exceptions.

The application stands disposed of.

CRL.M.C. 6610/2019

The petitioner no.3 is not present who is stated to be unwell and on bed rest.

Vide the present petition, the petitioners seek the quashing of the FIR No.129/2016, PS Kashmere Gate registered under Sections 498A/406/34 of the Indian Penal Code, 1860 submitting to the effect that a settlement has been arrived at between the parties vide a mediation settlement dated 22.09.2017 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 under Section 13B(2) of the HMA, 1955 vide a decree dated 31.07.2018 and no useful purpose would be served by the continuation of the proceedings in the present FIR.

The Investigating Officer of the case is present and has identified the petitioner no. 1 Anil and petitioner no.2 Mahesh Nagar present today in Court and the copy of the proof of identity of the petitioner no.3 Shyamo placed on the record at page 40 of the record as being the three accused arrayed in the said FIR and he has also identified the respondent no.2 as being the complainant thereof.

The respondent no. 2 has produced her original proof of identity, photocopy of which is on the record as Ex.CW2/A. The respondent no.2 in her deposition on oath has affirmed having signed her affidavit in support of the averments made in the petition at points A & B on Ex.CW2/B as well as on the true copy of the mediation settlement dated 22.09.2017 that has been arrived at between her and the petitioner no.1 at the Delhi Mediation Centre, THC, New Delhi at point A on Ex.CW2/C, which she states that she has signed these documents voluntarily of her own accord without any duress, coercion or pressure from any quarter. She has further testified to the effect that the marriage between her and the petitioner nos.1 has since been dissolved vide a decree of divorce through mutual consent under Section 13B(2) of the HMA, 1955 in HMA Petition No.1033/2018 vide a decree dated 31.07.2018 of the Court of the Judge, Family Court, Central District, THC, New Delhi, the certified copy of which is on the record as Ex.CW2/D and she has further stated that in terms of the mediation settlement Ex.CW2/C, a total sum of Rs.1,50,000/- was agreed to be paid to her by the

petitioner no.1, which she has stated that she has since received during the course of the proceedings under Section 13B(1) and Section 13B(2) of the HMA and that thus, in view thereof, she does not oppose the prayer made by the petitioners seeking the quashing of the FIR No.129/2016, PS Kashmere Gate registered under Sections 498A/406/34 of the Indian Penal Code, 1860 nor does she want the petitioners to be punished in relation thereto.

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

In reply to a specific Court query, the respondent no.2 has further stated that she has studied till Standard XII and has understood the implications of the statement made by her, there appears no reason to disbelieve the statement of the respondent no.2 that she has arrived at the settlement with the petitioners voluntarily.

In as much as, the FIR has apparently emanated from a matrimonial discord between the parties which has since been resolved by the dissolution of the marriage between the petitioner no.1 and the respondent no.2 vide a decree of divorce through mutual consent under Section 13B(2) of the HMA, 1955, it is considered appropriate in the interest of justice for maintenance of peace and harmony between the petitioners and the respondent no.2 as well as for the well being of the respondent no.2 to put a quietus to the litigation between the parties in terms of the verdict of the Hon'ble Supreme Court in *Narender Singh & Ors. V. State of Punjab*; (2014) 6 SCC 466 wherein it has been observed vide paragraph 31(IV) to the effect:-

“31. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under [Section 482](#) of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

(I)

(II)

(III)

(IV) On the other, those criminal cases having overwhelmingly and pre-dominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

.....”

and in view of the observations 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.129/2016, PS Kashmere Gate registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioner nos. 1 to 3 i.e. the petitioner no. 1 Anil, petitioner no.2 Mahesh Nagar and petitioner no.3 Shyamo are thus quashed.

The petition is disposed of.

ANU MALHOTRA, J

JANUARY 28, 2020

‘neha chopra’

IN THE HIGH COURT OF DELHI: NEW DELHI

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CRL.M.C. 6610/2019

ANIL AND ORS.Vs. STATE & ANR.

28.01.2020

CW-1 W/SI Saroj, PS OPL Unit.

ON S.A.

I am the Investigating Officer of FIR No.129/2016, PS Kashmere Gate registered under Sections 498A/406/34 of the Indian Penal Code, 1860.

I identify the petitioner no. 1 Anil and petitioner no.2 Mahesh Nagar present today in Court and the copy of the proof of identity of the petitioner no.3 Shyamo placed on the record at page 40 of the record as being the three accused arrayed in the said FIR and I also identify the respondent no.2 as being the complainant thereof.

RO & AC
28.01.2020

ANU MALHOTRA, J

IN THE HIGH COURT OF DELHI: NEW DELHI

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CRL.M.C. 6610/2019

ANIL AND ORS.Vs. STATE & ANR.

28.01.2020

CW-2 Ms. Barkha, d/o Sh. Raj Kumar, age 26 years, r/o H. No.1/15, Bediyan Gali, Shishewala Mandir, Ram Bazar, Mori Gate, Delhi-110006.

ON S.A.

I have brought my original proof of identity, photocopy of which is on the record as Ex.CW2/A.

My affidavit in support of the averments made in the petition bears my signatures at points A & B on Ex.CW2/B. The mediation settlement dated 22.09.2017 arrived at between me and the petitioner no.1 at the Delhi Mediation Centre, THC, New Delhi, the true copy thereof as issued by the Mediation Centre also bears my signatures as visible at point A on Ex.CW2/C, I have signed these documents voluntarily of my own accord without any duress, coercion or pressure from any quarter.

The marriage between me and the petitioner nos.1 has since been dissolved vide a decree of divorce through mutual consent under Section 13B(2) of the HMA, 1955 in HMA Petition No.1033/2018 vide a decree dated 31.07.2018 of the Court of the Judge, Family Court, Central District, THC, New Delhi, the certified copy of which is on the record as Ex.CW2/D. In terms of the mediation settlement Ex.CW2/C, a total sum of Rs.1,50,000/- was to be paid to me by the petitioner no.1, which I have since received during the course of the proceedings under Section 13B(1) and Section

13B(2) of the HMA.

In view thereof, I do not oppose the prayer made by the petitioners seeking the quashing of the FIR No.129/2016, PS Kashmere Gate registered under Sections 498A/406/34 of the Indian Penal Code, 1860 nor do I want the petitioners to be punished in relation thereto.

I have studied till Standard XII and work in Accounts section.

I have made my statement after understanding the implications thereof voluntarily of my own accord without any duress, coercion or pressure from any quarter.

RO & AC
28.01.2020

ANU MALHOTRA, J