

\$~4

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 255/2019
SATISH & ORS. Petitioner
Through: Mr. Saurabh Soni, Adv.

versus

STATE & ANR. Respondents
Through: Ms. Meenakshi Dahiya, APP for State
with SI Gajender Singh, PS Bawana.
R -2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **07.01.2020**

The vakalatnama of the counsel for the respondent no.2 is on the record. He has been telephonically apprised of the hearing but is stated to have informed that he is out of town.

Vide the present petition, the petitioners seek quashing of the FIR No.374/2005, PS Bawana 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 and no useful purpose would be served by the continuation of the proceedings in relation to the FIR in question.

The Investigating Officer of the case has identified the petitioners present today in Court as being the accused arrayed in the FIR in question and has also identified respondent no.2 present in Court today as being the complainant of the said FIR.

The respondent no.2 has produced her original proof of identity, copy

of which is on the record as Ex.CW2/A. The respondent no.2 in her examination on oath by the Court has affirmed having signed her affidavit annexed to the petition Ex.CW2/B and the joint statement dated 25.09.2017 made by Satish, Mahender Singh, Joginder and herself in relation to the FIR in question Ex.CW2/D voluntarily of her own accord without any duress, coercion or pressure from any quarter.

She has categorically stated that the averments made in para 3 of her no objection affidavit to the effect that she has compromised all dues and claims with the petitioners and she has received a sum of Rs.1,05,000/- in cash from the petitioner no.1 in the execution Court are correct. In view thereof, she has thus no opposition to the prayer made by the petitioners seeking quashing of the FIR No.374/2005, PS Bawana registered under Sections 498A/406/34 of the Indian Penal Code, 1860 nor does she want the petitioners to be punished in relation thereto.

She has been apprised of the joint statement made by her with the petitioners during the course of proceedings on 25.09.2017 before the learned MM/Mahila Court Rohini whereby it has been stated to the effect:

“We have settled the matter for a sum of Rs. 1,15,000/- which has already been paid to the complainant. We shall file the quashing petition before the High Court. Complainant undertakes to co-operate for filing of the quashing petition. We are making the statement without coercion or pressure. We undertake to abide by the terms and conditions of the statement.”

which indicates thereof that the matter had been settled for a sum of Rs.1,15,000/- which had been paid to the complainant i.e. the respondent

no.2 and she categorically states that she has received a sum of Rs.1,05,000/- and the settlement was executed for the said amount and she does not seek the further sum of Rs.10,000/- as mentioned through the statement dated 25.09.2017 Ex.CW2/D.

She has further stated that the marriage between her and the petitioner no.1 has since been dissolved vide a decree of divorce through mutual consent under Section 13B (2) of the HMA dated 03.10.2016 in HMA Petition NO.559927/2016 vide a decree of the Court of the Judge, Family Courts, District North, Rohini Courts, copy of which is on the record as Ex.CW2/C. She has further stated that two daughters born of the wedlock between her and the petitioner no.1 are living with the petitioner no.1 and that she has studied upto standard 5th/7th and she can sign. She has further stated that she does not want to pursue the case any further in relation to the FIR in question.

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

There appears no reason to disbelieve the statement made by the respondent no.2 that she has arrived at a settlement with the petitioner no.1 voluntarily as well as her statement made categorically to the effect that as also averred in her no objection affidavit that the settlement amount was a sum of Rs.1,05,000/-, which she states has also received. In view of the statement made by the respondent no.2 and the non-opposition on behalf of the State in as much as the FIR in question has emanated from a matrimonial discord which has since been resolved vide dissolution of the marriage

between the respondent no.2 and the petitioner no. 1 in as much as the respondent no.2 has categorically stated that there are no claims of hers left against the petitioners, it is considered appropriate to put a quietus to the litigation and disputes between the parties for maintenance of peace and harmony between them as also for the well being of the respondent no.2, 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),

the FIR No.374/2005, PS Bawana registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioners are quashed.

The petition is disposed of.

ANU MALHOTRA, J

JANUARY 07, 2020

vm

CRL.M.C. 255/2019

page no.6 of 6

IN THE HIGH COURT OF DELHI: NEW DELHI

4

CRL.M.C. 255/2019

SATISH & ORS. Vs. STATE & ANR

07.01.2020

CW-I SI Gajender Singh, PS Bawana.

ON S.A.

I identify the petitioner no.1 Shri Satish, petitioner no.2 Shri Mahender Singh, petitioner no.3 Shri Surender and petitioner no.4 Shri Jitender @ Kala present today in Court as being the accused arrayed in the FIR No.374/2005, PS Bawana registered under Sections 498A/406/34 of the Indian Penal Code, 1860. I also identify respondent no.2 Mrs. Santosh present in Court today as being the complainant of the said FIR.

RO & AC

07.01.2020

ANU MALHOTRA, J

IN THE HIGH COURT OF DELHI: NEW DELHI

4

CRL.M.C.255/2019

SATISH & ORS. Vs. STATE & ANR.

07.01.2020

CW-2 Mrs. Santosh, d/o Mr. Chattar Singh, aged 40 years, r/o .No.353, Village Bajitpur Thakran, Delhi.

ON S.A.

I have brought my original proof of identity, copy of which is on the record as Ex.CW2/A (original seen and returned). My affidavit annexed to the petition bears my signatures thereon at points A & B thereon on Ex.CW2/B. I have signed both these documents voluntarily of my own accord without any duress, coercion or pressure from any quarter.

I have studied upto standard 5th/7th. I can sign. The averments made in para 3 of my no objection affidavit to the effect that I have compromised all dues and claims with the petitioners and I have received a sum of Rs.1,05,000/- in cash from the petitioner no. 1 in the execution Court are correct. In view thereof, I have thus no opposition to the prayer made by the petitioners seeking quashing of the FIR No.374/2005, PS Bawana registered under Sections 498A/406/34 of the Indian Penal Code, 1860 nor do I want the petitioners to be punished in relation thereto.

Though as per the copy of the joint statement dated 25.09.2017 made by Satish, Mahender Singh, Joginder and myself in relation to the FIR No.374/2005, PS Bawana which bears my signatures thereon as visible at point A on Ex.CW2/D, it has been stated that the matter had been settled for a sum of Rs.1,15,000/- and I have received a sum of Rs.1,05,000/- as stated by me in my affidavit Ex.CW2/B and I do not seek the further sum of

Rs.10,000/- as mentioned through the statement dated 25.09.2017
Ex.CW2/D.

The marriage between me and the petitioner no.1 has since been dissolved vide a decree of divorce through mutual consent under Section 13B (2) of the HMA dated 03.10.2016 in HMA Petition No.559927/2016 vide a decree of the Court of the Judge, Family Courts, District North, Rohini Courts, copy of which is on the record as Ex.CW2/C.

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

RO & AC
07.01.2020

ANU MALHOTRA, J