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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 5639/2019**

GIRISH KUMAR & ORS Petitioners
Through: Mr.Pawan K. Bahl, Advocate

versus

STATE OF DELHI & ANR Respondents
Through: Ms.Meenakshi Dahiya, APP for State
with SI Yogender PS Burari
Mr.Mukesh Kumar, Adv for R-2 with
respondent No.2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **17.01.2020**

Vide the present petition, the petitioners seek quashing of the FIR No.869/2014, PS Burari 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 that the marriage between the petitioner and the respondent No.2 has since been dissolved vide a decree of divorce through mutual consent. It has thus been submitted on behalf of the petitioners that 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 is present and has identified the petitioners No.1 to 6, namely Girish Kumar, Shyam Lal Sah, Rukmini Devi, Ravi Kant, Shashi Kant, and Shrikant present in the Court today as being accused arrayed in the FIR in question. The

Investigating Officer also identified the respondent No.2 as being the complainant of the FIR in question.

The respondent no.2 has produced her original proof of identity, copy of which is on the record as Ex.CW1/A. The respondent no.2 in her examination on oath by the Court has affirmed having signed her affidavit, EX.CW-1/B and the mediation settlement dated 13.8.2018 bearing her signatures thereon on each page as visible at point A on EX.CW-1/C voluntarily of her own accord without any duress, pressure or coercion from any quarter. Respondent No.2 has further submitted that in view of the settlement arrived at between her and the petitioner No.1 dated 13.8.2018, the marriage between her 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 dated 29.10.2018 in HMA no. 1526/18 of the Court of the Principal Judge, Family courts, Central District, Tis Hazari Courts, Delhi, the copy of which is EX.CW-1/D. The respondent No.2 has further submitted that in terms of the settlement arrived at between the petitioner No.1 and herself a sum of Rs.3,00,000/- in the form of an FDR in her name is with the Investigating Officer of the case in relation to the FIR in question which is to be released to her and apart from the FDR a sum of Rs.5,00,000/- had been agreed to be paid to her by the petitioner No.1 towards all her claims out of which a sum of Rs.4,00,000/- had been received by her previously and the balance sum of Rs.1,00,000/- has been handed over to her by the petitioner No.1 today vide a Bankers Cheque bearing No. 200674 dated 20.7.2019 revalidated on 04.1.2020 drawn on the State Bank of India

in her favour copy of which is EX.CW-1/E and now no claims of hers are left against the petitioners. She further states since the marriage between her and the respondent No.2 has since been dissolved vide a decree of divorce through mutual consent under Section 13-B(2) of the Hindu Marriage Act, 1955 dated 29.10.2018 in HMA no. 1526/18 of the Court of the Principal Judge, Family courts, Central District, Tis Hazari Courts, Delhi and she has since remarried and that there are now no claims of hers left against the petitioners, she does not oppose the prayer made by the petitioners seeking quashing of the FIR No.869/2014, PS Burari 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 further stated that she has made her statement voluntarily of her own accord without any duress or coercion from any quarter. Inter alia, she has stated that she is a Post graduate in Hindi.

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 and the deposition of the respondent No.2.

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 of her own accord without any duress pressure or coercion from any quarter and that she has since remarried. 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.869/2014, PS Burari registered under Sections 498A/406/34 of the Indian Penal Code, 1860, and all consequential proceedings emanating therefrom against the petitioners are thus quashed.

Further in view of the status report that has been submitted qua the amount of Rs.3,00,000/- having been deposited with the Investigating Officer in the form of an FDR bearing no.34498569760 CIF No. 86947119749 dated 16.12.2014 issued from the State Bank of India, South Campus, Benito Juarez Road, Dhaula Kuan, New Delhi in the name of the

respondent No.2 seized through a seizure memo for the proceedings in relation to the FIR No.8869/2014, PS Burari registered under Sections 498A/406/34 of the Indian Penal Code, 1860, is directed to be released to the respondent No.2 which on release is permitted to be encashed by the respondent No.2 with the interest accrued thereon.

The petition is disposed of.

ANU MALHOTRA, J

JANUARY 17, 2020/SV

Item No. 17

CRL.M.C. 5639/2019

GIRISH KUMAR & ORS. V. STATE & ANR.

**CW-2 SI YOGENDER POLICE STATION BURARI
ON S.A.**

I identify the petitioners No.1 to 6, *namely*, Girish Kumar, Shyam Lal Sah, Rukmini Devi, Ravi Kant, Shashi Kant, and Shrikant as being the accused arrayed in FIR No. 869/2014, PS Burari registered under Sections 498A/406/34 of the Indian Penal Code, 1860 present in the Court today. I also identify the respondent No.2 present in the Court today as being the complainant of the said FIR.

ANU MALHOTRA, J.

**RO & AC
17.1.2020**

Item No. 17

CRL.M.C. 5639/2019

GIRISH KUMAR & ORS. V. STATE & ANR.

CW-2 MS.BEENA D/O SH. BALWANT SHAH R/O H. No. 56, GALI No.22, A-2 BLOCK, WEST SANT NAGAR, BURARI, DELHI-110084 ON S.A.

I have brought my original proof of identity i.e. Aadhar Card. The photocopy of the same is EX.CW-1/A.

My affidavit in support of the petition bears my signatures at point A & B on Ex.CW-1/B. The mediation settlement dated 13.8.2018 bears my signatures thereon on each page as visible at point A on EX.CW-1/C. I have signed these documents voluntarily of my own accord without any duress, pressure or coercion from any quarter. In terms of the settlement arrived at between me and the petitioner No.1 dated 13.8.2018 the marriage between me 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 dated 29.10.2018 in HMA No. 1526/18 of the Court of the Principal Judge, Family Courts, Central District, Tis Hazari Courts ,Delhi. The copy of the decree of divorce is EX.CW-1/D. Further in view of the settlement arrived at a sum of Rs.3,00,000/- in the form of an FDR in my name is with the Investigating Officer of the case in relation to the FIR No. 869/2014, PS Burari, registered under Section 498A/406/34 IPC, which is to be released to me. Apart from the FDR a sum of Rs.5,00,000/- had been agreed to be paid to me by the petitioner No.1 towards my all claims out of which a sum of Rs.4,00,000/- had been received by me previously and the balance sum of Rs.1,00,000/- has been handed over to me by the petitioner No.1 today vide a Bankers Cheque bearing No. 200674 dated 20.7.2019 revalidated on

04.1.2020 drawn on State Bank of India in my favour copy of which is EX.CW-1/E. There are now no claims of mine left against the petitioners. I have since remarried and in view of the settlement arrived at between me and the petitioners, I do not oppose the prayer made by the petitioners no. 1 to 6, *namely*, Girish Kumar, Shyam Lal Sah, Rukmini Devi, Ravi Kant, Shashi Kant, and Shrikant seeking quashing of the FIR No. 869/2014, PS Burari, registered under Section 498A/406/34 IPC, of the Indian Penal Code, 1860 nor do I want the petitioners to be punished in relation thereto in view of the settlement arrived at between me and the petitioners.

I am a post graduate in Hindi. I have made my statement after understanding the implications of the statement. I have made my statement voluntarily of my own accord without any duress, pressure or coercion from any quarter.

ANU MALHOTRA, J.

RO & AC
17.1.2020