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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 5132/2019**

MOHD. YUSUF Petitioner

Through: Mr.Dinesh, Advocate

versus

STATE & ANR. Respondents

Through: Ms.Meenakshi Dahiya, APP for State
with SI Pankaj Gulia, PS Jamia Nagar
Respondent No.2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **07.01.2020**

Vide the present petition, the petitioner seeks quashing of the FIR No.340/2015, PS Jamia Nagar 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 9.9.2019 during the course of Execution No. 176/2019 and 177/2019 and all disputes between the parties have since been resolved 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 petitioner present today in Court as being the only accused arrayed in the FIR in question and has also identified the respondent no.2 present in Court today as being the complainant of the said FIR with the status report having been

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submitted on behalf of the State to the effect that the other persons named in the FIR, *namely*, Mohd. Islam, Smt. Mehrun Nisa, Niyazi Mohd. Sheikh, Kehkashan Bano and Siraj Ahmad have been put in column No. 12. The status report that had been submitted under the signatures of the SHO PS Jamia Nagar dated 19.11.2019 also verifies the factum of the Talaq between the petitioner and the respondent No.2 on 27.4.2014 at Mumbai. To similar effect is the statement made by the respondent No.2 to Court queries and she also affirms the factum of the settlement arrived at between her and the petitioner at the Mediation Centre, Saket Courts, New Delhi. The respondent No.2 has also affirmed having received a sum of Rs.9,00,000/- pursuant to the said settlement document Ex.CW-2/C and states that there are now no claims of hers left against the petitioner and that she does not oppose the prayer made by the petitioner seeking quashing of the FIR No.340/2015, PS Jamia Nagar registered under Sections 498A/406/34 of the Indian Penal Code, 1860, and does not want the petitioner to be punished in relation thereto. She has further stated that she has made her statement voluntarily of her own accord without any duress, pressure or coercion from any quarter.

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 who is educated enough to understand the implications of the statement made by her as she states that she has made her statement voluntarily of her own accord without any duress, pressure or coercion from

any quarter 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 by dissolution of the marriage between the respondent no.2 and the petitioner and in as much as the respondent no.2 has categorically stated that there are no claims of hers left against the petitioner, 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***
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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
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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.340/2015, PS Jamia Nagar 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.

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CW-1 SI PANKAJ GULIA PS JAMIA NAGAR

ON S.A.

I identify the petitioner, *namely*, Mohd. Yusuf, present in the Court today as being the only accused chargesheeted in relation to the FIR No. 340/2015, registered at PS Jamia Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860 and I also identify the respondent No.2 Syed Rizwana, present in the Court today as being the complainant thereof.

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RO & AC

Item No.10

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**CW-2 SYED RIZWANA D/O SYED JAMIL AHMAD, R/O FLAT NO. 274-B, AL-MURTAZA APARTMENTS, JAMIA NAGAR, OKHLA ROAD, NEW DELHI, AGED 48 YEARS.
ON S.A.**

I have brought my original Aadhar Card. The photocopy of the same is EX.CW-2/A.

My affidavit in support of the averments made in the present petition bears my signatures at points A and B on Ex.CW-2/B.

A settlement has since been arrived at between me and the petitioner at the Mediation Centre, Saket Courts on 9.9.2019 and the copy of the said mediation Centre settlement bears my signatures at point A on each page thereof which is EXCW-2/C. Pursuant to the settlement arrived at between me and the petitioner a total sum of Rs.9,00,000 was agreed to be paid to me by the petitioner which sum has already been received by me in *toto*. The marriage between me and the petitioner has since been dissolved by a Talaq on 27.4.2014 at Mumbai as per the Muslim rituals. 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 FIR No.340/2015, registered at PS Jamia Nagar, under Sections 498A/406/34 of the Indian Penal Code, 1860 nor do I want the petitioner to be punished in relation thereto.

I am a graduate and I have made my statement after understanding the implications of the statement and I have made this statement voluntarily of my own accord without any duress or coercion from any quarter.

ANU MALHOTRA, J.

RO & AC