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

+ **CRL.M.C. 494/2019**

SUNIL SHARMA & ORS

..... Petitioners

Through: Mr.Manoj Kumar Yadav, Advocate

versus

GOVT OF NCT OF DELHI & ANR

..... Respondents

Through: Ms.Meenakshi Dahiya, APP for State
with SI Prabhakaran, PS Dabri
Ms.Manisha Yadav, Adv for R-2 with
R-2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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10.01.2020

Vide the present petition, the petitioners seek quashing of the FIR No. 1150/2014 PS Dabri 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 No.1 and 2, *namely*, Sunil Sharma and Shyam Sharma present in the Court today and as well as the proof of identity of the petitioner No.3, *namely*, Hemlata Devi, 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 and has affirmed having signed her affidavit EX.CW-2/B as well as the Memorandum of Understanding dated 20.2.2017 copy of which is on the record as EX.CW-2/C, voluntarily of her own accord without any duress, coercion or pressure from any quarter. She further states that in terms of the settlement arrived at between her and the petitioner No.1 a total sum of Rs.3,50,000/- had been agreed to be paid to her by the petitioner No.1 towards all her claims out of which Rs.2,40,000/- have been received by her during the proceedings under Section 13-B(1) and 13-B(2) of the Hindu Marriage Act, 1955, of the Court of the Judge, Family Courts, Dwarka, New Delhi and the balance sum of Rs.1,10,000/- vide a Demand Draft bearing No. 808763 for a sum of Rs.90,000/- dated 26.11.2019 drawn on Union Bank in her favour with a sum of Rs.20,000/- in cash having been paid to her by the petitioner No.1 today during the course of the present proceedings. The respondent No.2 further states that there are now no claims of hers left against the petitioners. The respondent No. 2 has also affirmed the factum that 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 20.3.2018 in HMA No. 476/18 of the Court of the Judge, Family Courts, Dwarka Courts, copy of which is EX.CW2/D. The respondent No.2 has further stated that that there are now no claims of hers left against the petitioners and that she has also since remarried, she does not oppose the prayer made by the petitioners

seeking quashing of the FIR No. 1150/2014 PS Dabri registered under Sections 498A/406/34 of the Indian Penal Code, 1860 nor does she want the petitioners to be punished in relation thereto in view of the settlement arrived at between her and the petitioners and that she had made her statement voluntarily of her own accord without any duress, pressure or coercion from any quarter after understanding the implications of the statement. She states that she has studied till 10th standard.

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.

There appears no reason to disbelieve the statement made by the respondent no.2 that she has arrived at a settlement with the petitioners and has since remarried and 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 and that she has since remarried, 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. 1150/2014 PS Dabri 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 10, 2020/sv

Item No.8

CRL.M.C. 494/2019

SUNIL SHARMA & ORS. V. STATE & ANR.

10.01.2020

CW-1 SI PRABHAKARAN, PS DABRI

ON S.A.

I identify the petitioners No.1 and 2, *namely*, Sunil Sharma and Shyam Sharma present in the Court today and as well as the proof of identity of the petitioner No.3, namely, Hemlata Devi, placed at page 34 of the petition, as being the accused arrayed in FIR No. 1150/2014 PS Dabri registered under Sections 498A/406/34 of the Indian Penal Code, 1860 . 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

Item No.8

CRL.M.C. 494/2019

SUNIL SHARMA & ORS. V. STATE & ANR.

10.01.2020

**CW-2 MS RASHMI D/O RAMESH CHAND SHARMA R/O C-77, GALI No. 37, MAHAVIR ENCLAVE, PART –II, NEW DELHI.
ON S.A.**

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

My affidavit in support of the petition bears my signatures at point A & B on Ex.CW-2/B. The Memorandum of Understanding dated 20.2.2017 bears my signatures as visible at point A on EX.CW-2/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 vide the Memorandum of Understanding dated 20.2.2017 a total sum of Rs.3,50,000/- had been agreed to be paid to me by the petitioner No.1 towards my all claims out of which Rs.2,40,000/- have been received by me during the proceeding under Section 13-B(1) and 13-B(2) of the Hindu Marriage Act, 1955, of the Court of the Judge, Family Courts, Dwarka, New Delhi and the balance sum of Rs.1,10,000/- vide a Demand Draft bearing No. 808763 for a sum of Rs.90,000/- dated 26.11.2019 drawn on Union Bank in my favour with a sum of Rs.20,000/- in cash having been paid to me by the petitioner No.1 today. There are now no claims of mine left against the petitioners. 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 20.3.2018 in HMA No. 476/18 of the Court of the Judge, Family Courts, Dwarka Courts

New Delhi copy of which is EX-CW-2/D. There are now no claims of mine left against the petitioners.. 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 3, *namely*, Sunil Sharma, Shyam Sharma and Hemlata Devi seeking quashing of the FIR No. 1150/2014 PS Dabri registered under Sections 498A/406/34 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 have studied till standard 10th. 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