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

+ CRL.M.C. 499/2020

VIVEK GUPTA & ORS

..... Petitioners

Through: Mr.Abid Ahmad and Mr.Harsh
Sharma, Advocates

versus

THE STATE (GOVT. OF NCT OF DELHI) & ORS.... Respondents

Through: Mr.Raghuvinder Varma, APP for
State with SI Sushil Kumar, PS
Kalyanpuri
Mr.Dilip Gupta, Adv for R-2 with R-
2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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30.01.2020

Vide the present petition, the petitioners seek quashing of the FIR No. 577/2018, PS Kalyanpuri 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 said FIR. In as much as all claims of the respondent No.2 qua the petitioners have been settled in terms of the proceedings dated 22.5.2019 of the Court of the Principal Judge, Family Courts, East District, Karkardooma Courts 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 dated 2.12.2019 in HMA No.1740/2019 of the Court of the Principal Judge, Family Courts, East District, Karkardooma Courts, the copy of the same is EX.CW-2/C .

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

The respondent No.2 in her examination on oath, has brought her original proof of identity, the copy of the same is Ex.CW-2/A and has affirmed having signed her affidavit EX.CW-2/B voluntarily of her own accord without any duress, pressure or coercion from any quarter and the factum of the settlement submitted through the petition and as incorporated in the proceedings dated 22.5.2019 of the Court of the Principal Judge, Family Courts, East District, Karkardooma Courts in MT No. 1142/2018 adverted to herein above and also the factum of the dissolution of her marriage with the petitioner No.1 vide a decree of divorce through mutual consent dated 2.12.2019, EX.CW-2/C.

The respondent No.2 further states that in terms of the settlement a total sum of Rs. 6,70,000/- was agreed to be paid by the petitioners to the respondent No.2 and states further that in as much as Rs.4,70,000/- has been paid to her previously and the balance amount of Rs.2,00,000/- has been handed over to her by the petitioner vide a

Bankers' Cheque No. 011613 dated 29.1.2020 for a sum of Rs. 2,00,000/- in her favour drawn on Jamia Co-operative Bank Limited, the photocopy of the same is EXCW-2/D.

In the circumstances, the respondent No.2 does not oppose the prayer made by the petitioners seeking quashing of the FIR No. 577/2018, PS Kalyanpuri registered under Sections 498A/406/34 of the Indian Penal Code, 1860, nor does she want them to be punished in relation thereto. The respondent No.2 also testified to the effect that she is a post graduate and working and that she understands the implication of the statement made by her and 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 quashing of the FIR in question.

In view of the settlement arrived at between the parties as recorded in the proceedings dated 22.5.2019 of the Court of the Principal Judge, Family Courts (East) District, Karkardooma Courts, and in view of the deposition made by the respondent No.2 on oath, there appears no reason to disbelieve her statement 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 dated 2.12.2019 in HMA No.1740/2019 of the Court of the Principal Judge, Family Courts, East District, Karkardooma Courts and in view of 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. 577/2018, PS Kalyanpuri 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 30, 2020/SV

ITEM NO. 80

CRL.M.C. NO. 499/2020

VIVEK GUPTA & OTHERS V. STATE & ANR.

**CW-1 ASI SUSHIL KUMAR POLICE STATION KALYANPURI
ON S.A.**

I identify the petitioners No.1 to 3, namely Vivek Gupta, Jay Prakash Gupta and Chander Kant Gupta as being the accused arrayed in FIR No. 577/2018, PS Kalyanpuri registered under Sections 498A/406/34 of the Indian Penal Code, 1860 Code present in the Court today. I also identify the respondent No.2 as being the complainant of the said FIR.

ANU MALHOTRA, J

RO & AC

30.1.2020.

ITEM NO. 80

CRL.M.C. NO. 499/2020

VIVEK GUPTA & OTHERS V. STATE & ANR.

**CW-2 MS RAJNI GUPTA, D/O SH. RAM NIWAS, AGED 28 YEARS,
R/O 1 5/164, KALYANPURI, DELHI-91**

ON S.A.

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

My affidavit in support of the averments made in the petitions bears my signatures at points A and B thereon on Ex.CW-2/B. In terms of the settlement as recorded in the proceedings dated 22.5.2019 in MT No. 1142/18, the marriage between me and the petitioner No.1 has since been dissolved vide a decree of divorce through mutual consent during the proceedings under Section 13B(1) and 13B(2) of the Court of the Principal Judge, Family Courts, East District, Karkardooma Courts dated 2.12.2019 in HMA No.1740/2019 and the copy of the decree sheet in relation thereto is Ex.CW-2/C.

In terms of the settlement arrived at between me and the petitioner No.1 a sum of Rs.6.70,000/- was to be paid to me by the petitioner No. 1 of which a sum of Rs.4,70,000/- have been received by me previously and the balance sum of Rs.2,00,000/- has been handed over to me by the petitioner No.1 today vide a demand draft bearing Nos. 011613 dated 29.1.2020 for a sum of Rs.2,00,000/- drawn on Jamia Co-operative Bank Limited in my favour, the copy of the same is EX.CW-2/D and now there are no claims of mine left against the petitioners. In view thereof, I do not oppose the prayer made by the petitioners No. 1 to 3, namely, Vivek Gupta, Jay Prakash

Gupta and Chander Kant Gupta seeking quashing of FIR No.577/2018 PS Kalyanpuri registered under Sections 498-A/406/34 IPC nor do I want the petitioners to be punished in relation thereto.

I have done my Masters and also working. I have understood the implications of the statement made by me. I have stated so voluntarily of my own accord without any duress, pressure or coercion from any quarter.

ANU MALHOTRA, J

RO & AC

30.1.2020.