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

+ CRL.M.C. 832/2019

DINESH & ORS

..... Petitioner

Through: Ms.Urmila Yadav, Advocate

versus

STATE (NCT OF DELHI) & ANR Respondents

Through: Mr. Sanjeev Sabharwal, APP for State
With WSI Krishna, PS Mangolpuri
Mr.Prem Prakash Mann, Adv for R-2
with R-2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **09.01.2020**

Vide the present petition, the petitioners seek quashing of the arrayed in FIR No. 490/2014 PS Mangol Puri 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 to 4, *namely*, Dinesh, Smt.Kamla, Smt. Bimla and Vinod 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 testified to having signed her affidavit EX.CW-2/B in support of the averments made in the petition as well as the settlement document dated 6.12.2018 arrived at the Delhi Mediation Centre, Rohini District Courts, Delhi, copy of which is on the record as EX.CW-2/C voluntarily of her own accord without any duress, pressure or coercion 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.60,000/- had been agreed to be paid to her by the petitioner No.1 towards all her claims which sum has now been received by her vide a Banker's Cheque bearing No. 328428 dated 6.1.2020 drawn on State Bank of India in her favour copy of which is EX.CW-2/E. She further states that the marriage between her and the petitioner No.1 has since been dissolved vide an *ex parte* decree of divorce in HMA No. 394/2016 dated 13.2.2017 of the Judge Family Courts, North - West, Rohini Courts, the certified copy of the decree sheet in relation thereto is EX.CW-2/D. As per the terms of the mediation settlement Ex.CW-2/C, it has been agreed between the parties that the petitioner No.1 herein would not challenge the said *ex parte* decree of divorce granted to the respondent No.2. The respondent No.2 has further stated 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 no. No.1 to 4, *namely*, Dinesh, Smt.Kamla, Smt. Bimla and Vinod seeking quashing of the FIR No. 490/2014 PS Mangol Puri 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.

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. 490/2014 PS Mangol Puri 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.

Copy of the order be given *Dasti*, as prayed.

ANU MALHOTRA, J

JANUARY 09, 2020/sv

Item No.22

CRL.M.C. 832/2019

DINESH & ORS. V. STATE & ANR.

09.01.2020

**CW-1 WSI KRISHNA POLICE STATION MANGOLPURI
ON S.A.**

I identify the petitioners No.1 to 4, *namely*, Dinesh, Smt.Kamla, Smt. Bimla and Vinod as being the accused arrayed in FIR No. 490/2014 PS Mangol Puri 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

Item No.22

CRL.M.C. 832/2019

DINESH & ORS. V. STATE & ANR.

09.01.2020

**CW-2 MS SUNITA D/O RAJBIR SINGH R/O A-853,
MANGOLPRUI, DELHI, AGED 30 YEARS.
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. A settlement has been arrived at between me and the petitioner No.1 at the Mediation Centre, Rohini District Courts, Delhi on 6.12.2018 and a copy thereof as issued by the Branch Incharge of the Mediation Centre, Rohini Courts Delhi bears my signatures as visible on the same at point A thereon EX.CW-2/C. The marriage between me and the petitioner No.1 has since been dissolved vide an ex parte decree of divorce in HMA No. 394/2016 dated 13.2.2017. The certified copy of the decree sheet in relations thereto is EX.CW-2/D. In terms of the settlement arrived at between me and the petitioner No.1 a total sum of Rs.60,000/- had been agreed to be paid to me by the petitioner No.1 which I have now received vide a Bankers Cheque bearing No. 328428 dated 6.1.2020 drawn on State Bank of India in my favour copy of which is EX.CW-2/E. There are now no claims of mine left against the petitioners and the marriage between me and the petitioner No.1 has since been dissolved vide an ex parte decree of divorce . 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 4, *namely*, Dinesh, Smt.Kamla, Smt. Bimla and Vinod seeking quashing of the

FIR No. 490/2014 PS Mangol Puri 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 and since remarried. 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 or coercion from any quarter.

ANU MALHOTRA, J.

RO & AC