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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 571/2020 & CRL.M.A. 2357/2020**

SWATI SHIWAL

..... Petitioner

Through: Petitioner in person with Mr.
Nikhilesh Kumar, Advocate.

versus

STATE & ANR.

..... Respondents

Through: Mr. Sanjeev Sabharwal, APP for State
with SI Deepal, PS Narela.
R-2 in person with Ms. Jyoti Taneja,
Advocate for R-2.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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03.02.2020

CRL.M.A. 2357/2020 (Ex.)

Exemption allowed subject to all just exceptions.

The application stands disposed of.

CRL.M.C. 571/2020

Vide the present petition, the petitioner seeks the quashing of the FIR No.656/2015, PS Narela registered under Sections 498A/406 of the Indian Penal Code, 1860 submitting to the effect that a settlement has been arrived at between the parties and that the petitioner and the respondent no.2 along with their minor child aged 6 years are living together happily since April 2019 and no useful purpose would be served by the continuation of the proceedings in relation to the present FIR.

The Investigating Officer of the case is present and has identified the petitioner Ms. Swati Shiwal present today in Court as being the complainant of the FIR No.656/2015, PS Narela registered under Sections 498A/406 of the Indian Penal Code, 1860 and he has also identified the respondent no.2 Mr. Ravinder Pal as being the sole accused in the said FIR. He has also testified to the effect that the petitioner and the respondent no.2 are living together without any problems now.

The petitioner/ complainant has produced her proof of identity in the form of her original Driving Licence, photocopy of which is on the record as Ex.CW2/A. The petitioner in her examination on oath by the Court has affirmed having signed her affidavit in support of the averments made in the petition at points A & B on Ex.CW2/B as well as the settlement dated 29.01.2018 which has since been arrived at between her and the respondent no.2 at the Counselling Cell of the Court of the Family Court, North District, Delhi at point A on Ex.CW2/C, qua which she states that she has signed these documents voluntarily of her own accord without any duress, coercion or pressure from any quarter. She has further testified to the effect that she is now living with the respondent no.2 since April 2019 along with her son aged 6 years without any problems now and that she wants to continue to live with the respondent no.2 and in as much as, they are living happily together, she does not seek the further continuation of the proceedings against the respondent no.2 in relation to the FIR No.656/2015, PS Narela registered under Sections 498A/406 of the Indian Penal Code, 1860 nor does she want the respondent no.2 to be punished in relation thereto and has further stated that she has understood the implications of the statement made

by her.

The petitioner/ complainant is apparently well educated having done her M.A., B.Ed. and states that she teaches. There appears no reason to disbelieve her statement that she has arrived at a settlement with the respondent no.2 voluntarily of her own accord without any duress, coercion or pressure 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.

In view of the statement made by the petitioner, non opposition on behalf of the State and in as much as, the FIR has apparently emanated from a matrimonial discord between the petitioner and the respondent no.2, which has since been resolved by reconciliation between the petitioner and the respondent no.2, for maintenance of peace and harmony between the parties it is considered appropriate to put a quietus to the litigation between the parties 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),

In view thereof, the FIR No.656/2015, PS Narela registered under Sections 498A/406 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioner are thus quashed.

The petition is disposed of.

ANU MALHOTRA, J

FEBRUARY 03, 2020

‘neha chopra’

IN THE HIGH COURT OF DELHI: NEW DELHI

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CRL.M.C. 571/2020

SWATI SHIWALVs. STATE & ANR.

03.02.2020

CW-1 SI Deepak, PS Narela.

ON S.A.

I identify the petitioner Ms. Swati Shiwali present today in Court as being the complainant of the FIR No.656/2015, PS Narela registered under Sections 498A/406 of the Indian Penal Code, 1860 and I also identify the respondent no.2 Mr. Ravinder Pal as being the sole accused in the said FIR.

The petitioner and the respondent no.2 are living together without any problems now.

RO & AC
03.02.2020

ANU MALHOTRA, J

IN THE HIGH COURT OF DELHI: NEW DELHI

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CRL.M.C. 571/2020

SWATI SHIWALVs. STATE & ANR.

03.02.2020

CW-2 Ms/ Swati Shiwal, w/o Sh. Ravinder Pal, age 31 years, r/o H. No.48, Gali No.3, Rajeev Colony, Narela.

ON S.A.

I have brought my proof of identity in the form of my original Driving Licence, photocopy of which is on the record as Ex.CW2/A.

My affidavit in support of the averments made in the petition bears my signatures at points A & B on Ex.CW2/B. A settlement dated 29.01.2018 has since been arrived at between me and the respondent no.2 at the Counselling Cell of the Court of the Family Court, North District, Delhi which settlement document also bears my signatures as visible at point A on Ex.CW2/C, I have signed these documents voluntarily of my own accord without any duress, coercion or pressure from any quarter.

I have now living together with the respondent no.2 since April 2019 along with my son aged 6 years without any problems now and I want to continue to live with the respondent no.2, in as much as, we are living happily together, I do not seek the further continuation of the proceedings against the respondent no.2 in relation to the FIR No.656/2015, PS Narela registered under Sections 498A/406 of the Indian Penal Code, 1860 nor do I want the respondent no.2 to be punished in relation thereto.

I have done my M.A., B.Ed. and I teach.

I have made my statement after understanding the implications

thereof, voluntarily of my own accord without any duress, coercion or pressure from any quarter.

RO & AC
03.02.2020

ANU MALHOTRA, J