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

+ **CRL.M.C. 696/2020 & CRL.M.A. 2871/2020**

SHRI ROSHAN LAL

..... Petitioner

Through: Petitioner in person with Mr. Amitesh
Gaurav, Advocate.

versus

STATE & ANR.

..... Respondents

Through: Mr. Sanjeev Sabharwal, APP for State
with SI Ramesh, PS Nihal Vihar.
R-2 in person with counsel
(appearance not given.)

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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07.02.2020

CRL.M.A. 2871/2020 (Ex.)

Exemption allowed subject to all just exceptions.

The application stands disposed of.

CRL.M.C. 696/2020

Vide the present petition, the petitioner seeks the quashing of the FIR No.542/2014, PS Nihar Vihar 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 marriage between the petitioner and the respondent no.2 has since been dissolved vide a decree of divorce through mutual consent under Section 13B(2) of the HMA, 1955 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 as being the accused charged in relation to FIR No.542/2014, PS Nihar Vihar under Sections 498A/406 of the Indian Penal Code, 1860 and he has also identified the respondent no.2 Ms. Jyoti as being the complainant thereof. He has further testified to the effect that none of the other co-accused in the instant case namely Satpal, Mool Chand, Mamta, Sushila, Sunita and Sunil Kumar were charged in the matter and had been discharged vide order dated 24.09.2019 of the learned MM (Mahila Court-04), West, THC, Delhi as also borne out from the perusal of the record.

The respondent no.2 has produced her original proof of identity, photocopy of which is on the record as Ex.CW2/A. The respondent no.2 in her examination on oath has affirmed having signed her affidavit in support of the averments made in the petition at points A & B on Ex.CW2/B. She has further testified to the effect that the marriage between her and the petitioner has since been dissolved vide a decree of divorce through mutual consent under Section 13B(2) of the HMA Petition No.3139/2019 vide a decree dated 13.12.2019 of the Court of the Judge, Family Court, West District, THC, Delhi, certified copy of which is on the record as Ex.CW2/C and has further stated that in view of the settlement arrived at between her and the petitioner, a total sum of Rs.1,40,000/- had been agreed to be paid to her by the petitioner of which a sum of Rs.90,000/- has been received by her previously and the balance sum of Rs.50,000/- has now been handed over to her vide a demand draft bearing No.587328 dated 04.02.2020 drawn on the Oriental Bank of Commerce in the name of her mother Indra Devi, photocopy of which demand draft is on the record as Ex.CW2/D and states

that she has no objection to the demand draft being given in the name of her mother Indra Devi, in as much as, there is a bank account in the name of her mother. The mother of the respondent no.2 is present in person and has produced her original proof of identify, photocopy of which is on the record as Ex.CW2/E. The respondent no.2 has further stated that there are now no claims of hers left against the petitioners.

In reply to a specific Court query, the respondent no.2 has stated that she has studied till Standard X and has understood the implications of the statement made by her and that in view of the settlement arrived at between her and the petitioner, she does not oppose the prayer made by the petitioner seeking the quashing of the FIR No.542/2014, PS Nihar Vihar under Sections 498A/406 of the Indian Penal Code, 1860 nor does she want the petitioner to be punished in relation thereto.

On behalf of the State, there is no opposition to the prayer made by the petitioner seeking the quashing of the FIR in view of the settlement arrived at between the parties.

In view of the deposition of the respondent no.2, there appears no reason to disbelieve that she has arrived at a settlement with the petitioner voluntarily of her own accord without any duress, coercion or pressure from any quarter. In as much as the FIR has apparently emanated from a matrimonial discord between the parties which has since been resolved by the dissolution of the marriage between the parties, 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.542/2014, PS Nihar Vihar under Sections 498A/406 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioner Roshal Lal are thus quashed.

The petition is disposed of.

ANU MALHOTRA, J

FEBRUARY 07, 2020

‘neha chopra’

IN THE HIGH COURT OF DELHI: NEW DELHI

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CRL.M.C. 696/2020

SHRI ROSHAN LAL VS. STATE & ANR.

07.02.2020

CW-1 SI Ramesh Kumar, PS Nihal Vihar.

ON S.A.

I identify the petitioner as being the accused charged in relation to FIR No.542/2014, PS Nihar Vihar under Sections 498A/406 of the Indian Penal Code, 1860 and I also identify the respondent no.2 Ms. Jyoti as being the complainant thereof.

None of the other co-accused in the instant case namely Satpal, Mool Chand, Mamta, Sushila, Sunita and Sunil Kumar were charged in the matter and had been discharged vide order dated 24.09.2019 of the learned MM (Mahila Court-04), West, THC, Delhi.

RO & AC

07.02.2020

ANU MALHOTRA, J

IN THE HIGH COURT OF DELHI: NEW DELHI

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CRL.M.C. 696/2020

SHRI ROSHAN LAL VS. STATE & ANR.

07.02.2020

CW-2 Ms. Jyoti @ Suman, d/o Sh. Devi Charan, age 33 years, r/o C-138, Nihal Vihar, Nangloi.

ON S.A.

I have brought my original proof of identity, 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.

The marriage between me and the petitioner has since been dissolved vide a decree of divorce through mutual consent under Section 13B(2) of the HMA Petition No.3139/2019 vide a decree dated 13.12.2019 of the Court of the Judge, Family Court, West District, THC, Delhi, certified copy of which is on the record as Ex.CW2/C.

In view of the settlement arrived at between me and the petitioner, a total sum of Rs.1,40,000/- had been agreed to be paid to me by the petitioner of which a sum of Rs.90,000/- has been received by me previously and the balance sum of Rs.50,000/- has now been handed over to me vide a demand draft bearing No.587328 dated 04.02.2020 drawn of the Oriental Bank of Commerce in the name of my mother Indra Devi, photocopy of which demand draft is on the record as Ex.CW2/D. I have no objection to the demand draft being given in the name of my mother Indra Devi, in as much as, there is bank account in the name of my mother. The photocopy of the identity proof of my mother is on the record as Ex.CW2/E. There are now

no claims of mine left against the petitioners.

In view thereof, I do not oppose the prayer made by the petitioner seeking the quashing of the FIR No.542/2014, PS Nihar Vihar under Sections 498A/406 of the Indian Penal Code, 1860 nor do I want the petitioner to be punished in relation thereto.

I have studied till Standard X.

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
07.02.2020

ANU MALHOTRA, J