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

+ **CRL.M.C. 1043/2019**

SAGAR PANDEY @ SHAMBHU PANDEY Petitioner

Through Mr. Vineet Kumar, Adv. with
Petitioner in person

versus

THE STATE & ANR Respondents

Through Mr. Kewal Singh Ahuja, APP for State
SI Mool Chand, PS Patparganj
SI Indra Pal Singh, PS Madhu Vihar
Mr. Arun Pal, Adv. for R-2 with R-2 in
person

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **20.01.2020**

Vide the present petition, the petitioner seek the quashing of the FIR No. 1481/2014 PS Madhu Vihar 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 pursuant thereto all disputes between the parties have been settled and the petitioner No.1 and the respondent No.2 are living together amicably and happily and thus no useful purpose will be served by continuation of the proceedings in relation to the FIR.

The Investigating Officer of the case is present and has identified the petitioner as being the accused arrayed in the FIR No. 1481/2014 PS Madhu Vihar registered under Sections 498A/406/34 of

the Indian Penal Code, 1860 and also identified the respondent no.2 Ms. Nisha @Pooja present today as being the complainant of the said FIR. It has been stated as per the status report and testified by the I.O. that other persons Mr.Bijoy Pandey, Sanjay Pandey and Bhola Pandey are the brothers- in -law of the respondent No.2 and were kept in column No.12 of the charge sheet. The respondent No.2 has produced her original proof of identity, photocopy of which is on the record as Ex.CW2/A. The affidavit of the respondent No.2 in support of the averments made in the petition bears her signatures thereon at points A & B on Ex.CW2/B. The respondent No.2 has stated that she has arrived at a settlement with the petitioner voluntarily of her own accord without any duress, coercion or pressure from any quarter after understanding the implication thereof, and in terms of the settlement she has been living peacefully with the petitioner for the last four years. She further states that there are now no problems between her and the petitioner and thus she does not oppose the prayer made by the petitioner seeking the quashing of the FIR No. 1481/2014 PS Madhu Vihar registered under Sections 498A/406/34 of the Indian Penal Code, 1860 nor does she want the petitioner to be punished in relation thereto. She is a graduate and she has made her statement after understanding the implications thereof 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.

As there appears no reason to disbelieve the statement of the respondent No.2 that she has arrived at a settlement with the petitioner voluntarily, in as much as the FIR has apparently emanated from a matrimonial discord between the parties and that respondent No.2 and the petitioner are living together happily for the last four years, 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),

In view thereof, the FIR No. 1481/2014 PS Madhu Vihar registered under

Sections 498A/406/34 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

JANUARY 20, 2020

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SAGAR PANDEY @ SHAMBHU PANDEY Vs. STATE & ANR

20.01.2020

CW-1 SI Mool Chand, PS Patparganj Industrial Area

ON S.A.

I identify the petitioner Sagar Pandey @ Shambhu Pandey present in person as being the accused arrayed in the the FIR No. 1481/2014 PS Madhu Vihar registered under Sections 498A/406/34 of the Indian Penal Code, 1860. He is the only person chargesheeted. Mr.Bijoy Pandey, Sanjay Pandey and Bhola Pandey are the brothers- in -law of the respondent No.2 and are arrayed in column No.2 of the charge sheet. and I also identify the respondent no.2 Ms. Nisha @ Pooja present today as being the complainant of the said FIR.

RO & AC

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Statement of CW-2 Ms. Nisha @ Pooja w/o Sh. Sagar Pandey @ Shambhu Pandey d/of Shri Santosh Kumar presently residing at B-10, Second Floor, Flat No.2, Ganga Vihar, Loni, Ghaziabad, U.P. earlier residing at B-75, West Vinod Nagar, Mandawali, Delhi 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 thereof at points A & B on Ex.CW2/B.

The settlement has been arrived between me and the petitioner voluntarily of my own accord without any duress, coercion or pressure from any quarter. In terms of the settlement I have been living peacefully with the petitioner for the last four years and I am happy and want to continue my matrimonial relations. There are now no problems between me and the petitioner and thus I do not oppose the prayer made by the petitioners seeking the quashing of the FIR No. 1481/2014 PS Madhu Vihar registered under Sections 498A/406/34 of the Indian Penal Code, 1860 nor do I want the petitioner to be punished in relation thereto.

I am a graduate and 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

20.01.2020

aj

ANU MALHOTRA, J