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

+ CRL.M.C. 1188/2019

ANUJ ARORA AND ORS

.....Petitioners

Through: Petitioners in person with Ms.Babli Kala,
Advocates.

Versus

STATE & ANR.

.....Respondents

Through: Mr.Ashok Kumar Garg, APP for State.
R-2 in person with Mr. Vikas Arora &
Ms.Radhika Arora, Advocates for R-2.

+ CRL.M.C. 1217/2019

ANUJ ARORA & ORS

.....Petitioners

Through: Petitioners in person with Ms.Babli Kala,
Advocate.

Versus

STATE & ORS

.....Respondents

Through: Mr.Ashok Kumar Garg, APP for State.
R-2 & 3 in person with Mr. Vikas Arora
& Ms.Radhika Arora, Advocates for R-2
& 3.

+ CRL.M.C. 1220/2019

ANUJ ARORA

.....Petitioner

Through: Petitioner in person with Ms.Babli Kala,
Advocate.

Versus

STATE & ORS.

.....Respondents

Through: Mr.Ashok Kumar Garg, APP for State.
R-2 & 3 in person with Mr. Vikas Arora
& Ms.Radhika Arora, Advocates for R-2
& 3.

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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22.07.2020

(hearing through Video Conferencing)

The three petitions i.e. CRL.M.C.1188/2019, CRL.M.C. 1217/2019 & CRL.M.C.1220/2019 seeking the quashing of the respective FIRs i.e. FIR No. 388/2016, PS Patel Nagar under sections 498A/406/354/34 Indian Penal Code, 1860, FIR No. 374/2016, PS Karol Bagh under Sections 323/342/354/354A/506/509/34 of the Indian Penal Code, 1860 and FIR No. 438/2015, PS Prasad Nagar under Sections 323/341/427 of the Indian Penal Code, 1860, all of which apparently emanated from a matrimonial discord between Mr.Anuj Arora & Ms. Shiba Maken which matrimonial discord is indicated to have been resolved vide a mediation settlement dated 23.08.2018 that has been arrived at at the Delhi High Court Mediation and Conciliation Centre, pursuant to which the marriage between Mr.Anuj Arora & Ms. Shiba Maken has since been dissolved vide a decree of divorce through mutual consent under Section 13B(2) of the HMA, 1955 in HMA Petition No.45/2019 vide a decree dated 14.01.2019 of the Court of the Principal Judge, Family Court, West, THC, Delhi, in as much as, as per the terms of the settlement vide Clause

(ii), it had been stipulated to the effect:-

“ii. It is further agreed between the parties that the First Party shall pay a total sum of Rs. 54,00,000/- (Rupees Fifty Four Lakhs Only) to Second Party towards full and final settlement of all her claims regarding permanent alimony, stridhan, her maintenance, (past, present and future) and maintenance (past, present and future), education, welfare and upbringing of Master Ridhaan.”

whereby, it had been agreed between the parties that a total sum of Rs. 54,00,000/- (Rupees Fifty Four Lakhs Only) would be paid to Ms. Shiba Maken towards full and final settlement of all her claims regarding permanent alimony, stridhan, her maintenance, (past, present and future) and maintenance (past, present and future), education, welfare and upbringing of Master Ridhaan born of the wedlock between Mr. Anuj Arora and Ms. Shiba Maken, vide order dated 11.10.2019 in CRL.M.C.1188/2019, it had been stipulated and observed to the effect that the said term whereby the maintenance (past, present and future) as well as for the education, welfare and upbringing of the minor child born of the wedlock between Mr. Anuj Arora and Ms. Shiba Maken, had been settled, the same was not in consonance with the law in terms of the verdict of the Hon'ble Supreme Court in Civil Appeal 4031-4032/2019 arising out of SLP (C) Nos.32868-32869/2018 titled as ***Ganesh Vs. Sudhirkumar Shrivastava & Ors.*** vide the verdict dated 22.04.2019 as adhered to and followed by this Court in ***Rakesh Jain & Ors. vs. State & Anr.*** in CRL.M.C. 2935/2019 dated 06.09.2019.

Vide order dated 11.10.2019, the petitioners were directed to place their affidavits on the record to submit to the effect that the minor child would be entitled to seek his claims qua maintenance and otherwise in accordance with law. The petitioner no.2 Mr. Sukhdev Arora arrayed as

the petitioner no.2 in CRL.M.C.1188/2019 and arrayed as the petitioner no.2 in CRL.M.C.1217/2019 has since expired and the verification report in relation thereto has been submitted by the State already. The affidavits of other petitioners have been placed on the records of CRL.M.C.1188/2019 specifying that taking into account the factum that the petitioners would have no objection to the minor child Ridhaan seeking his claims qua maintenance or otherwise in accordance with law qua which the statement of Mr. Anuj Arora to that effect has also been recorded.

During the course of the proceedings dated 21.07.2020, it was stated by the respondent no.2 that out of the total settled sum of Rs.54,00,000/- (Rupees Fifty Four Lakhs), she has received a sum of Rs.32,00,000/- (Rupees Thirty Two Lakhs) previously and on the receipt of the balance sum of Rs.22,00,000/- (Rupees Twenty Two Lakhs), she would have no objection to the prayer made by the petitioners seeking the quashing of the FIRs in question i.e. FIR No. 388/2016, PS Patel Nagar under sections 498A/406/354/34 Indian Penal Code, 1860, FIR No. 374/2016, PS Karol Bagh under Sections 323/342/354/354A/506/509/34 of the Indian Penal Code, 1860 and FIR No. 438/2015, PS Prasad Nagar under Sections 323/341/427 of the Indian Penal Code, 1860. The said proceedings were further deferred vide order dated 21.07.2020 for today and it has now been submitted by Ms.Shiba Maken and on her behalf as well as on behalf of the petitioners that the said amount of Rs.22,00,000/- (Rupees Twenty Two Lakhs) has since been handed over to Ms.Shiba Maken vide a draft bearing No.291691 dated 01.02.2019 which has since revalidated on 19.06.2020 and that thus, all claims of Ms.Shiba Maken stand settled.

Taking all the above aspects into account and the factum that the

FIRs in question i.e. FIR No. 388/2016, PS Patel Nagar under sections 498A/406/354/34 Indian Penal Code, 1860, FIR No. 374/2016, PS Karol Bagh under Sections 323/342/354/354A/506/509/34 of the Indian Penal Code, 1860 and FIR No. 438/2015, PS Prasad Nagar under Sections 323/341/427 of the Indian Penal Code, 1860 have apparently emanated from a matrimonial discord between Mr.Anuj Arora and Ms.Shiba Maken which has since been resolved by the dissolution of their marriage through mutual consent, as all claims inter se between them have been settled, no useful purpose would be served by the continuation of the litigation between the parties i.e. Mr.Anuj Arora and Ms. Shiba Maken as well as qua the other relatives of Mr.Anuj Arora in relation to FIR No.388/2016, PS Patel Nagar under Sections 498A/406/354/34 of the Indian Penal Code, 1860 as also against Mr.Anuj Arora qua FIR Nos. i.e. FIR No. 374/2016, PS Karol Bagh under Sections 323/342/354/354A/506/509/34 of the Indian Penal Code, 1860 and FIR No. 438/2015, PS Prasad Nagar under Sections 323/341/427 of the Indian Penal Code, 1860 in relation to the complaints made by Ms.Shiba Maken and her mother i.e. Ms. Archana Maken qua which both Ms.Shiba Maken and her mother i.e. Ms.Archana Maken have both stated that they have no opposition to the quashing of the said FIRs in view of the settlement arrived at between the parties.

In the circumstances, it is considered appropriate to put a quietus to the litigation between the parties for maintenance of peace and harmony between them as well as for the well being of the minor child Master Ridhaan born of the wedlock between Mr.Anuj Arora and Ms.Shiba Maken in view 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. 388/2016, PS Patel Nagar under Sections 498A/406/354/34 Indian Penal Code, 1860 against the petitioner no.1 Anuj Arora, petitioner no.3 Rani Arora, petitioner no.4 Vaibhav Ghai, and petitioner no.5 Shweta Arora Ghai, FIR No. 374/2016, PS Karol Bagh under Sections 323/342/354/354A/506/509/34 of the Indian Penal Code, 1860 against the petitioner thereof i.e. Anuj Arora and FIR No. 438/2015, PS Prasad Nagar under Sections 323/341/427 of the Indian

Penal Code, 1860 against the petitioner thereof i.e. Anuj Arora and all consequential proceedings emanating therefrom against the petitioners of all the three petitions are thus, quashed.

The petitions are disposed of accordingly.

ANU MALHOTRA, J

JULY 22, 2020

'neha chopra'