

\$~76

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 935/2020 & CRL.M.A. 3805/2020**

SUBHASH CHAND

..... Petitioner

Through: Petitioner in person with Ms. Neha &
Mr. Abhishek, Advocates.

versus

THE STATE (NCT) OF DELHI & ANR

..... Respondents

Through: Mr. Ashok Kumar Garg, APP for
State with SI Birender Singh, PS
Sector-23, Dwarka.
R-2 in person with Mr. P.N.
Upadhyay, Advocate for R-2.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

%

19.02.2020

CRL.M.A. 3805/2020 (Ex.)

Exemption allowed subject to all just exceptions.

The application stands disposed of.

CRL.M.C. 935/2020

Vide the present petition, the petitioner seeks the quashing of the FIR No.106/2016, PS Chhawala 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 after the registration of the FIR in question, the petitioner and the respondent no.2 have since been living together for the last three years and that no useful purpose would be served

by the continuation of the proceedings in the present FIR.

The Investigating Officer of the case is present and had identified the petitioner Subhash Chand present today in Court as being the sole accused charge sheeted in relation to the FIR No.106/2016, PS Chhawala registered under Sections 498A/406 of the Indian Penal Code, 1860 and he has also identified the respondent no.2 Ms. Geeta as being the complainant of the said FIR.

The respondent no.2 has produced her original proof of identify, photocopy of which is on the record as Ex.CW2/A. The respondent no.2 in her deposition 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 as well as on the copy of the settlement dated 26.11.2016 that has been arrived at between her and the petitioner as visible 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 after the registration of the FIR, she has been living with the petitioner and her three children born of the wedlock between the petitioner and herself peacefully for the last three years without any problems now and that she wants to continue to live with the petitioner and that in view of the settlement arrived at between her and the petitioner, she does not oppose the prayer made by the petitioners seeking the quashing of the FIR No.106/2016, PS Chhawala registered under Sections 498A/406 of the Indian Penal Code, 1860 nor does she want the petitioner to be punished in relation thereto.

In reply to a specific Court query by the Court, the respondent no.2

has stated that she has understood the implications of the statement made by her and that she has arrived at a settlement with the petitioners 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 as much as, there appears no reason to disbelieve the statement made by the respondent no.2 that she has arrived at a settlement with the petitioner voluntarily of her own accord as well as there is no opposition on behalf of the State, for maintenance of peace and harmony between the parties and for the well being of the three children born of the wedlock between the petitioner and the respondent no.2, 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, FIR No.106/2016, PS Chhawala registered under Sections 498A/406 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioner Subhash Chand are thus quashed.

The petition is disposed of.

ANU MALHOTRA, J

FEBRUARY 19, 2020

‘neha chopra’

IN THE HIGH COURT OF DELHI: NEW DELHI

76

CRL.M.C. 935/2020

SUBHASH CHAND VS. THE STATE (NCT) OF DELHI & ANR.

19.02.2020

CW-1 SI Birender Singh, PS Sector-23, Dwarka.

ON S.A.

I am the Investigating Officer of the FIR No.106/2016, PS Chhawala.

I identify the petitioner Subhash Chand present today in Court as being the sole accused charge sheeted in relation to the FIR No.106/2016, PS Chhawala registered under Sections 498A/406 of the Indian Penal Code, 1860 and I also identify the respondent no.2 Ms. Geeta as being the complainant of the said FIR.

RO & AC
19.02.2020

ANU MALHOTRA, J

IN THE HIGH COURT OF DELHI: NEW DELHI

76

CRL.M.C. 935/2020

SUBHASH CHAND VS. THE STATE (NCT) OF DELHI & ANR.

19.02.2020

CW-2 Ms. Geeta, w/o Sh. Subhash Chand, d/o Sh. Ishwar Singh, age 41 years, r/o H.No.30, Qutub Vihar, New 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 at points A & B on Ex.CW2/B. A settlement dated 26.11.2016 had been arrived at between me and the petitioner, copy of which 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.

After the registration of the FIR, since the last three years I have been living with the petitioner and my three children born of the wedlock between the petitioner and myself peacefully without any problems now and I want to continue to live with the petitioner.

In view of the settlement arrived at between me and the petitioner, I do not oppose the prayer made by the petitioners seeking the quashing of the FIR No.106/2016, PS Chhawala registered under Sections 498A/406 of the Indian Penal Code, 1860 nor do I want the petitioner to be punished in relation thereto.

I am not literate.

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
19.02.2020

ANU MALHOTRA, J