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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1240/2019 & CRL.M.A. 4848-4849/2019**
RAHUL & ORS Petitioners
Through: Counsel for petitioners.

versus

THE STATE & ANR Respondents
Through: Mr. Kamal Kr. Ghei, APP for State
with SI Amit Kumar, PS Kalyan Puri.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **05.02.2020**

CRL.M.A. 4849/2019 (Exemption)

Exemption allowed, subject to just exceptions.

CRL.M.C. 1240/2019 & CRL.M.A. 4848/2019

Mr. SP Nangia, learned counsel for the respondent no.2 submits that his authorization qua the respondent no.2 would be filed during the course of the day, the same be filed accordingly.

Vide the present petition, the petitioners seek quashing of the FIR No.68/2012, PS Kalyanpuri registered under Sections 328/307/498A/34 of the Indian Penal Code, 1860 submitting to the effect that a settlement has been arrived at between the parties at the Counselling Cell of the Family Court where the proceedings were pending and no useful purpose would be served by the continuation of the proceedings in relation to the FIR in question.

The Investigating Officer of the case has identified the petitioners present today in Court as being the accused arrayed in the FIR in question

and has also identified respondent no.2 present in Court today as being the complainant of the said FIR.

The respondent no.2 has produced her original proof of identity, copy of which is on the record as Ex.CW2/A. The respondent no.2 in her examination on oath by the Court has affirmed having signed her affidavit in response to the petition Ex.CW2/B and the settlement arrived at between her and the petitioners at the Counselling Cell in the Court of the Principal Judge, Family Court, East, Vishwas Nagar Ex.CW2/C voluntarily of her own accord without any duress, coercion or pressure from any quarter.

She has further stated that in terms of the settlement between her and the petitioner no.1, a total sum of Rs.85,000/- was agreed to be paid to her by the petitioner no.1, of which, a sum of Rs.40,000/- has since been received by her and the balance sum of Rs.45,000/- has now been handed over to her by the petitioner no.1 vide a banker's cheque bearing no.120761 dated 04.02.2020 drawn on the Bandhan Bank in her name, copy of which is on the record as Ex.CW2/D and that there are now no claims of hers left against the petitioners.

She has further stated that in terms of the settlement between her and the petitioners, the marriage between her and the petitioner no.1 has since been dissolved vide a decree of divorce through mutual consent under Section 13B (2) of the HMA dated 01.06.2018 in HMA Petition No.1454/2018 vide a decree of the Court of the Principal Judge, Family Courts, East District, KKD, copy of which is on the record as Ex.CW2/E. She has further stated that in view of the settlement between her and the petitioners, she has no opposition to the prayer made by the petitioners

seeking quashing of the FIR No.68/2012, PS Kalyanpuri registered under Sections 328/307/498A/34 of the Indian Penal Code, 1860 nor does she want the petitioners to be punished in relation thereto. She has further stated that she has studied upto Standard VI and that she has made her statement after understanding its implications.

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

In as much as the FIR in question is one *inter alia* under Section 328 of the Indian Penal Code, 1860, on a perusal of the contents of the FIR and on a perusal of the MLC of the complainant, it is considered essential to examine the complainant in relation to the said aspect, qua which, she states that she does not know what was administered to her.

In as much as there has been no chemical analysis conducted of any blood sample or any other sample in relation to the alleged administration of any substances to the respondent no.2, in the circumstances of the settlement having been arrived at between the parties and the dissolution of the marriage between the petitioner no.1 and the respondent no.2, 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),

the FIR No.68/2012, PS Kalyanpuri registered under Sections 328/307/498A/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioners are quashed

The State however would make an endeavour to conduct the investigations completely. The copy of this order be sent to the Commissioner of Police, Delhi to ensure that cases where there are allegations of administration of poisonous substances and MLCs are prepared, requisite examination in relation to the chemical analysis of the substances alleged to have been administered needs necessarily to be conducted.

The petition is disposed of.

ANU MALHOTRA, J

FEBRUARY 05, 2020

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IN THE HIGH COURT OF DELHI: NEW DELHI

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CRL.M.C. 1240/2019

RAHUL & ORS Vs. THE STATE & ANR

05.02.2020

CW-1 SI Amit Kumar, PS. Kalyan Puri.

ON S.A.

I identify the petitioner no.1 Mr. Rahul, petitioner no.2 Mr. Shyam Kumar, petitioner no.3 Mr. Kamlesh @ Balle and petitioner no.4 Ms. Nisha as being the accused arrayed in the FIR No.68/2012, PS Kalyanpuri registered under Sections 328/307/498A/34 of the Indian Penal Code, 1860 and I also identify the respondent no.2 Ms. Pooja as being the complainant thereof.

RO & AC
05.02.2020

ANU MALHOTRA, J

IN THE HIGH COURT OF DELHI: NEW DELHI

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CRL.M.C. 1240/2019

RAHUL & ORS Vs. THE STATE & ANR

05.02.2020

CW-2 Ms. Pooja, d/o late Mr. Madan Lal, aged 26 years, r/o H.No.10/108, Block No.10, Trilok Puri, New Delhi.

On S.A.

I have brought my original proof of identity, copy of which is on the record as Ex.CW2/A. My affidavit in response to the petition bears my signatures thereon at points A & B thereon on Ex.CW2/B. The settlement arrived at between me and the petitioners at the Counselling Cell in the Court of the Principal Judge, Family Court, East, Vishwas Nagar bears my signatures thereon as visible at point A on Ex.CW2/C. I have signed all these documents voluntarily of my own accord without any duress, coercion or pressure from any quarter.

In terms of the settlement between me and the petitioner no.1, a total sum of Rs.85,000/- was agreed to be paid to me by the petitioner no.1, of which, a sum of Rs.40,000/- has since been received by me and the balance sum of Rs.45,000/- has now been handed over to me by the petitioner no.1 vide a banker's cheque bearing no.120761 dated 04.02.2020 drawn on the Bandhan Bank in my name, copy of which is on the record as Ex.CW2/D. There are now no claims of mine left against the petitioners.

In terms of the settlement between me and the petitioners, the marriage between me and the petitioner no.1 has since been dissolved vide a decree of divorce through mutual consent under Section 13B (2) of the

HMA dated 01.06.2018 in HMA Petition No.1454/2018 vide a decree of the Court of the Principal Judge, Family Courts, East District, KKD, copy of which is on the record as Ex.CW2/E.

In view of the settlement between me and the petitioners, I have no opposition to the prayer made by the petitioners seeking quashing of the FIR No.68/2012, PS Kalyanpuri registered under Sections 328/307/498A/34 of the Indian Penal Code, 1860 nor do I want the petitioners to be punished in relation thereto. I do not know what substance was administered to me by the petitioners.

I have studied upto standard 6th.

I have made my statement after understanding its implications voluntarily of my own accord without any duress, coercion or pressure from any quarter.

RO & AC
05.02.2020

ANU MALHOTRA, J