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

+ **CRL.M.C. 1226/2019**

JUNAID KHAN & ORS

..... Petitioners

Through: Petitioners in person with Mr. Abrar Ali, Advocate.

versus

THE STATE (GOVT OF NCT OF DELHI) & ANR

..... Respondents

Through: Ms. Meenakshi Dahiya, APP for State with W/SI Sadhna, PS Chandni Mahal.

R-2 in person with Mr. S.S. Hora, Advocate for R-2.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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04.02.2020

Vide the present petition, the petitioners seek the quashing of the FIR No.70/2016, PS Chandni Mahal 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 petitioners and the respondent no.2 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 nos. 1 to 6 i.e. petitioner no.1 Junaid Khan, petitioner no.2 Javed Khan, petitioner no.3 Naaz Bano, petitioner no.4 Ms. Zainab, petitioner no.5 Ms. Fatima and petitioner no.6 Kulsum present today in Court as being the

six accused arrayed in the FIR No.70/2016, PS Chandni Mahal registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and he has also identified the respondent no.2 Ms. Falak Naaz as being the complainant of the said FIR.

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 by the Court has affirmed having signed her affidavit in support of the averments made in the petition at points A & B on Ex.CW2/B, the talaqnama with the divorce having been made on three days as per the Shariat law as detailed in the talaqnama at Annexure-P4 at point A on Ex.CW2/C with the copy of the translated version thereof at page 41 of the petition as Ex.CW2/D as well as the copy of the settlement dated 27.04.2018 which has since been arrived at between her and the petitioner no.1 at the Delhi Mediation Centre, THC, New Delhi at point A on Ex.CW2/E, 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 in terms of the settlement arrived at between her and the petitioners, a total sum of Rs.5,00,000/- had been agreed to be paid to her by the petitioners out of which a sum of Rs.3,00,000/- has been received by her previously and a balance sum of Rs.2,00,000/- has now been handed over to her by the petitioner no.1 vide a demand draft bearing No.763535 dated 03.02.2020 drawn on the UCO Bank in her favour, photocopy of which is on the record as Ex.CW2/F and has further stated that there are now no claims of hers left against the petitioners. The respondent no.2 has further stated that in view of the settlement arrived

at between her and the petitioners, she does not oppose the prayer made by the petitioner nos. 1 to 6 seeking the quashing of the FIR No.70/2016, PS Chandni Mahal registered under Sections 498A/406/34 of the Indian Penal Code, 1860 nor does she want the petitioners to be punished in relation thereto. In reply to a specific Court query, the respondent no.2 has testified to the effect that she has studied till Standard X and that she has understood the implications of the statement made by her. In view of the statement made by the respondent no.2, there appears no reason to disbelieve 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 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 has apparently emanated from a matrimonial discord between the parties which has since been resolved by the dissolution of the marriage between the petitioner no.1 and the respondent no.2 and all claims of the respondent no.2 having been settled, for maintenance of peace and harmony between the parties and for the well being of the respondent no.2 it is considered appropriate to 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.70/2016, PS Chandni Mahal registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioner nos. 1 to 6 i.e. petitioner no.1 Junaid Khan, petitioner no.2 Javed Khan, petitioner no.3 Naaz Bano, petitioner no.4 Ms. Zainab, petitioner no.5 Ms. Fatima and petitioner no.6 Kulsum are thus quashed.

The petition is disposed of.

ANU MALHOTRA, J

FEBRUARY 04, 2020

‘neha chopra’

IN THE HIGH COURT OF DELHI: NEW DELHI

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CRL.M.C. 1226/2019

JUNAID KHAN AND ORS. STATE & ANR.

04.02.2020

CW-1 W/SI Sadhna, PS Chandni Mahal.

ON S.A.

I identify the petitioner nos. 1 to 6 i.e. petitioner no.1 Junaid Khan, petitioner no.2 Javed Khan, petitioner no.3 Naaz Bano, petitioner no.4 Ms. Zainab, petitioner no.5 Ms. Fatima and petitioner no.6 Kulsum present today in Court as being the six accused arrayed in the FIR No.70/2016, PS Chandni Mahal registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and I also identify the respondent no.2 Ms. Falak Naaz as being the complainant of the said FIR.

RO & AC

04.02.2020

ANU MALHOTRA, J

IN THE HIGH COURT OF DELHI: NEW DELHI

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CRL.M.C. 1226/2019

JUNAID KHAN AND ORS. STATE & ANR.

04.02.2020

CW-2 Ms. Falak Naaz, d/o Late Anwar Ahmad, age 24 years, r/o H. No.2006, Gali Haji Ismail, Mohalla Qabristan, Turkman Gate, 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.

I have since been divorced from the petitioner no.1 vide a talaqnama with the divorce having been made on three days as per the sharat law as detailed in the talaqnama at Annexure-P4 which bears my signatures as visible at point A on Ex.CW2/C and the copy of the translated version thereof is at page 41 of the petition as Ex.CW2/D.

A settlement dated 27.04.2018 has since been arrived at between the me and the petitioner no.1 at the Delhi Mediation Centre, THC, New Delhi, copy of which also bears my signatures as visible at point A on Ex.CW2/E, I have signed these documents voluntarily of my own accord without any duress, coercion or pressure from any quarter. In terms of the settlement arrived at between me and the petitioners, a total sum of Rs.5,00,000/- had been agreed to be paid to me by the petitioners out of which a sum of Rs.3,00,000/- has been received by me previously and a balance sum of Rs.2,00,000/- has now been handed over to me by the petitioner no.1 vide a demand draft bearing No.763535 dated 03.02.2020 drawn on the UCO Bank in my favour, photocopy of which is on the record as Ex.CW2/F. There are

now no claims of mine left against the petitioners.

In view of the settlement arrived at between me and the petitioners, I do not oppose the prayer made by the petitioner nos. 1 to 6 seeking the quashing of the FIR No.70/2016, PS Chandni Mahal registered under Sections 498A/406/34 of the Indian Penal Code, 1860 nor do I want the petitioners 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
04.02.2020

ANU MALHOTRA, J