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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1513/2019**
SH. KAMAL KHURANA & ORS. Petitioners
Through: Mr. Diwakar Singh, Adv. with
petitioners.

versus

STATE & ANR. Respondents
Through: Ms. Meenakshi Dahiya, APP for
State with SI Virender Kumar, PS
Shalimar Bagh.
Counsel for R-2 with R-2.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **15.01.2020**

Vide the present petition, the petitioners seek quashing of the FIR No.537/2016, PS Shalimar Bagh registered under Sections 498A/406/494 of the Indian Penal Code, 1860 submitting to the effect that a settlement has been arrived at between the parties 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 passport, 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

annexed to the petition Ex.CW2/B and settlement arrived at between her and the petitioner no.1 in the Court of Principal Judge, Family Courts (West), THC dated 13.09.2018 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.3 lakhs was agreed to be paid to her by the petitioner no.1, of which, a sum of Rs.2 lakhs has already been received by her previously during the course of the proceedings under Sections 13B (1) and 13B (2) of the HMA and the balance sum of Rs.1 lakhs has now been handed over to her by the petitioner no.1 vide a demand draft bearing no.720540 dated 13.01.2020 drawn on the Punjab and Sindh Bank in her favour, 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 petitioner no.1, 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 30.01.2019 in HMA Petition No.3984 /2018 vide a decree of the Court of the Judge, Family Courts (West), THC, copy of which is on the record as Ex.CW2/E. She has further stated that she has a daughter of her previous wedlock and the said daughter was not adopted by the petitioner no.1 Mr. Kamal Khurana and 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.537/2016, PS Shalimar Bagh registered under Sections 498A/406/494 of the Indian Penal Code, 1860 nor does she want the petitioners to be punished in relation

thereto.

She has further stated that she is a graduate and works in computers and 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.

It is essential to observe that vide the settlement document dated 13.09.2018 vide clause 2 thereof it has been agreed between the parties to the effect:

“2) It is agreed that the respondent shall pay Rs.3,00,000/- to the petitioner towards legal entitlement past, present and future arising out of the marriage including claims of permanent alimony, istridhan, maintenance of petitioner and the daughter including arrears of maintenance, if any and all other miscellaneous and legal expenses or any other claim arising out of the marriage. It is further agreed that the respondent shall return the two jewelery items i.e. one gold chain and one gold set which were given to the sister and brother in law of the respondent at the time of marriage, at the time of recording of first motion u/s 13 B(1) HMA. It IS further agreed that the respondent shall return the articles from point A to A in list mark X which is signed by the petitioner and the respondent after recording of first motion u/s 13 B(1) HMA. It is agreed that the brother of the petitioner along with the counsel shall collect the said articles from the house of the respondent after prior intimation.”,

whereby *inter alia* there are claims qua arrears of maintenance, if any and other miscellaneous and legal expenses qua the daughter mentioned. It has been stated by the respondent no.2 that daughter mentioned in the clause 2 of the settlement agreement is the daughter of her previous wedlock and that

the said daughter has not since been adopted by the petitioner no.1. In view of the statement of the respondent no.2, the verdict of the Hon'ble Supreme Court dated 22.4.2019 in ***Ganesh V. Sudhir Kumar Shrivastava & Ors.***; Civil Appeal Nos. 4031-4032/2019 arising out of SLP(C) Nos. 32868-32869/2018 would not apply to the facts and circumstances of the instant case.

In view thereof in as much as there appears no reason to disbelieve the statement made by the respondent no.2 as observed hereinabove that she has arrived at a settlement with the petitioners voluntarily in as much as the FIR in question has emanated from a matrimonial discord which has since been resolved vide dissolution of the marriage between the respondent no.2 and the petitioner, 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.537/2016, PS Shalimar Bagh registered under Sections
498A/406/494 of the Indian Penal Code, 1860 and all consequential
proceedings emanating therefrom against the petitioner are quashed.

The petition is disposed of.

ANU MALHOTRA, J

JANUARY 15, 2020
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IN THE HIGH COURT OF DELHI: NEW DELHI

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CRL.M.C. 1513/2019

SH. KAMAL KHURANA & ORS. Vs. STATE & ANR

15.01.2020

CW-1 SI Virender, PS Shalimar Bagh.

ON S.A.

I identify the petitioner no.1 Mr. Kamal Khurana, petitioner no.2 Smt. Usha Khurana, petitioner no.3 Mr. Surinder Kumar Khurana and petitioner no.4 Ms. Puja Mendiratta as being the only accused arrayed in the FIR No.537/2016, PS Shalimar Bagh registered under Sections 498A/406/494 of the Indian Penal Code, 1860. I identify the respondent no.2 Ms. Sarika as being the complainant of the said FIR.

RO & AC
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15.01.2020

CW-2 Ms. Sarika, d/o late Mr. Manohar Lal, aged 40 years, r/o BD-37, Shalimar Bagh, Delhi.

I have brought my original passport, 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. A settlement has since been arrived at between me and the petitioner no.1 in the Court of Principal Judge, Family Courts (West), THC dated 13.09.2018 with my signatures thereon 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.3 lakhs was agreed to be paid to me by the petitioner no.1, of which, a sum of Rs.2 lakhs has already been received by me previously during the course of the proceedings under Sections 13B (1) and 13B (2) of the HMA and the balance sum of Rs.1 lakhs has now been handed over to me by the petitioner no.1 vide a demand draft bearing no.720540 dated 13.01.2020 drawn on the Punjab and Sindh Bank in my favour, 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 petitioner no.1, 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 30.01.2019 in HMA Petition No.3984 /2018 vide a decree of the Court of the Judge, Family Courts (West), THC, copy of which is on the record as Ex.CW2/E. I have a daughter of my previous wedlock and the said daughter was not adopted by the petitioner no.1 Mr. Kamal Khurana.

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.537/2016, PS Shalimar Bagh registered under Sections 498A/406/494 of the Indian Penal Code, 1860 nor do I want the petitioners to be punished in relation thereto.

I am a graduate and work in computers.

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
15.01.2020

ANU MALHOTRA, J