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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 1311/2020 & CRL.M.A. 5028/2020
KAILASH GUPTA & ORS Petitioners
Through: Mr. Satykam Saini, Adv.

versus

STATE & ANR Respondents
Through: Mr. Kamal Kr. Ghei, APP for State
with SI Jagdish, PS Bindapur.
Mr. Dharmendre Sharma, Adv. for R-
2.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **06.03.2020**

CRL.M.A. 5028/2020 (Exemption)

Exemption allowed, subject to just exceptions.

CRL.M.C. 1311/2020

Vide the present petition, the petitioners seek quashing of the FIR No.927/2017, PS Bindapur registered under Sections 498A/34 of the Indian Penal Code, 1860 submitting to the effect that a settlement has been arrived at between the parties vide a mediation settlement dated 28.05.2019 at the Mediation Centre, Dwarka Courts, New Delhi Ex.CW2/C and the marriage between the petitioner no.1 and the respondent no.2 has been dissolved vide a decree of divorce through mutual consent 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 Ex.CW2/B and the mediation settlement arrived at between the petitioner and the respondent no.2 Ex.CW2/C voluntarily of her own accord without any duress, coercion or pressure from any quarter.

The respondent no.2 has further stated that pursuant to the settlement arrived at 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 dated 10.12.2019 under Section 13B (2) of the HMA in HMA Petition No.3477/2019 of the Court of the learned Judge, Family Court, Dwarka Courts, New Delhi, copy of which is on the record as Ex.CW2/D.

She has further stated that in terms of the settlement arrived at between her and the petitioner no.1, a total sum of Rs.5 lakhs has been agreed to be paid to her by the petitioner no.1, of which, a sum of Rs.4 lakhs has already been received by her previously and the balance sum of Rs.1 lakh has now been handed over to her by the petitioner no.1 vide a demand draft bearing no.018311 dated 05.03.2020 in her favour drawn on the Axis Bank Ltd., the copy of the same be placed on the record and that there are no claims of hers left against the petitioners now.

She 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

petitioners seeking the quashing of the FIR No.927/2017, PS Bindapur registered under Sections 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 X and she seeks to pursue a beautician's course and that she has made her statement voluntarily after understanding the implications thereof.

On behalf of the State, there is no opposition to the prayer made by the petitioners seeking quashing of the FIR in question in view of the settlement arrived at between the petitioners and the respondent no.2.

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 petitioners voluntarily in as much as the FIR in question being an aftermath of a matrimonial discord which has since been resolved vide dissolution of the marriage between the respondent no.2 and the petitioner no.1 in as much as all claims of the respondent no.2 having been settled as testified by 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.927/2017, PS Bindapur registered under Sections 498A/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioners are quashed.

The petition is disposed of.

ANU MALHOTRA, J

MARCH 06, 2020

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IN THE HIGH COURT OF DELHI: NEW DELHI

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CRL.M.C. 1311/2020

KAILASH GUPTA & ORS Vs. STATE & ANR

06.03.2020

CW-1 SI Jagdish, PS Bindapur.

ON S.A.

I identify the petitioner no.1 Mr. Kailash Gupta, petitioner no.2 Mrs. Omwati Gupta, petitioner no.3 Mr. Jai Bhagwan Gupta, petitioner no.4 Mr. Hari Om Gupta, petitioner no.5 Mrs. Parul, petitioner no.6 Mrs. Seema, petitioner no.7 Mr. Bharat Goel and petitioner no.8 Mr. Dinesh Gupta as being the accused arrayed in the FIR No.927/2017, PS Bindapur registered under Sections 498A/34 of the Indian Penal Code, 1860. I identify the respondent no.2 Ms. Pooja Mittal as being the complainant of the said FIR.

RO & AC
06.03.2020

ANU MALHOTRA, J

IN THE HIGH COURT OF DELHI: NEW DELHI

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CRL.M.C. 1311/2020

KAILASH GUPTA & ORS Vs. STATE & ANR

06.03.2020

CW-2 Ms. Pooja Mittal, d/o Mr. Naresh Mittal, aged 31 years, r/o H.No.R-19, Manas Kunj, Vikas Vihar Extn., Uttam Nagar.

I have brought my original proof of identity, copy of which is on the record as Ex.CW2/A. My affidavit in support of the averments made in the petition bears my signatures thereon at points A & B thereon on Ex.CW2/B. The mediation settlement dated 28.05.2019 arrived at between me and the petitioner no.1 at the Mediation Centre, Dwarka Courts, New Delhi bears my signatures as visible at point A 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.

Pursuant to the settlement arrived at 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 dated 10.12.2019 under Section 13B (2) of the HMA in HMA Petition No.3477/2019 of the Court of the learned Judge, Family Court, Dwarka Courts, New Delhi, copy of which is on the record as Ex.CW2/D. There are no children born of the wedlock between me and the petitioner no.1.

In terms of the settlement arrived at between me and the petitioner no.1, a total sum of Rs.5 lakhs has been agreed to be paid to me by the petitioner no.1, of which, a sum of Rs.4 lakhs has already been received by

me previously and the balance sum of Rs.1 lakh has now been handed over to me by the petitioner no.1 vide demand draft bearing no.018311 dated 05.03.2020 in my favour drawn on the Axis Bank Ltd. The copy of the same be placed on the record. There are no claims of mine left against the petitioners now.

In view of the settlement arrived at between me and the petitioners, I do not oppose the prayer made by the petitioners seeking the quashing of the FIR No.927/2017, PS Bindapur registered under Sections 498A/34 of the Indian Penal Code, 1860 nor do I want the petitioners to be punished in relation thereto.

I have studied upto Standard X and I seek to pursue a beautician course.

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

RO & AC
06.03.2020

ANU MALHOTRA, J