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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1599/2019**
ASHISH KUMAR & ORS Petitioners
Through: Mr. Rajender Yadav, Adv. with
petitioner nos.1.

versus

THE STATE & ANR Respondents
Through: Ms. Meenakshi Dahiya, APP for State
with SI Sanjay Kumar, PS Mayur
Vihar.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA
ORDER
% **12.03.2020**

The petitioner no.2 has already expired as has been submitted on behalf of the State on 17.12.2019.

Vide the present petition, the petitioners seek quashing of the FIR No.49/2014, PS Mayur Vihar registered under Sections 354A/323/342/506/34 of the Indian Penal Code, 1860 submitting to the effect that a settlement has been arrived at between the parties at the Delhi Mediation Centre, Rohini Courts 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 petitioner no.1 and proof of identity of the petitioner no.3 Mr. Vishal @ Vicky placed on

record at page 71 of the petition as being the accused arrayed in the FIR in question and has identified the respondent no.2 Ms. Kanika as being the complainant of the said FIR. He has testified to the effect that the petitioner no.2 has already expired on 19.03.2019 and has also stated that the other accused Ms. Santosh, erstwhile mother-in-law of the respondent no.2 has been discharged on 22.09.2016.

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 her and the petitioners Ex.CW2/C voluntarily of her own accord without any duress, coercion or pressure from any quarter.

She has further stated that pursuant to the settlement arrived at between her and the petitioner no.1 Ex.CW2/C, the marriage between her and the petitioner no.1 has since been dissolved vide a decree of divorce dated 12.01.2018 under Section 13B (2) of the HMA in HMA Petition No.79/2018 of the Court of the learned Principal Judge, Family Court, North, Rohini 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 Ex.CW2/C, a total sum of Rs.50,000/- has been agreed to be paid to her by the petitioner no.1, of which, a sum of Rs.30,000/- has already been received by her previously and the balance sum of Rs.20,000/- has now been handed over to her by the petitioner no.1 vide a Bankers Cheque bearing no.750516 dated 11.03.2020 in her favour

drawn on the State Bank of India, the copy of the same is on the record as Ex.CW2/E 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 me and the petitioners, she does not oppose the prayer made by the petitioner nos.1 & 3 seeking the quashing of the FIR No.49/2014, PS Mayur Vihar registered under Sections 354A/323/342/506/34 of the Indian Penal Code, 1860 nor does she want the petitioners to be punished in relation thereto in as much as the marriage between her and the petitioner no.1 has since been dissolved vide a decree of divorce through mutual consent, there would be no useful purpose by the continuation of the proceedings qua the FIR in question and thus she does not seek any action any further against the petitioner nos.1 & 3. She has further stated that she has now come to know that the petitioner no.2 has since expired. She has further stated that she has studied upto standard 10th and 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.

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 coupled with the factum that the basic allegations qua the alleged commission of the offence punishable under Section 354A of the Indian Penal Code, 1860 relate to the petitioner no.2 who has since expired and the death verification report is on the record as submitted by the SHO concerned

and in view of the deposition of 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.49/2014, PS Mayur Vihar registered under Sections 354A/323/342/506/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioner nos.1 & 3 are quashed.

The petition is disposed of.

ANU MALHOTRA, J

MARCH 12, 2020

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IN THE HIGH COURT OF DELHI: NEW DELHI

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CRL.M.C. 1599/2019

ASHISH KUMAR & ORS Vs. THE STATE & ANR

12.03.2020

CW-1 SI Sanjay Kumar, Mayur Vihar.

ON S.A.

I identify the petitioner no.1 Mr. Ashish Kumar and proof of identity of the petitioner no.3 Mr. Vishal @ Vicky placed on record at page 71 of the petition as being the accused arrayed in the FIR No.49/2014, PS Mayur Vihar registered under Sections 354A/323/342/506/34 of the Indian Penal Code, 1860. I identify the respondent no.2 Ms. Kanika as being the complainant of the said FIR. The petitioner no.2 has already expired on 19.03.2019. The mother-in-law of the respondent no.2 Ms. Santosh has been discharged on 22.09.2016.

RO & AC
12.03.2020

ANU MALHOTRA, J

Signature
Not Verified

Digitally Signed
By: SUMIT CHAI
Signing
Date: 07.03.2020
17:16:42
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digitally signed by
PS to HMJ ANU
MALHOTRA.

IN THE HIGH COURT OF DELHI: NEW DELHI

19

CRL.M.C. 1599/2019

ASHISH KUMAR & ORS Vs. THE STATE & ANR

12.03.2020

CW-2 Ms. Kanika, d/o Mr. Jaivir, aged 25 years, r/o H.No.415, MCD Flats, Jahangirpuri, Delhi.

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 24.05.2017 arrived at the Delhi Mediaton Centre, Rohini 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 Ex.CW2/C, the marriage between me and the petitioner no.1 has since been dissolved vide a decree of divorce dated 12.01.2018 under Section 13B (2) of the HMA in HMA Petition No.79/2018 of the Court of the learned Principal Judge, Family Court, North, Rohini Courts, New Delhi, copy of which is on the record as Ex.CW2/D.

In terms of the settlement arrived at between me and the petitioner no.1 Ex.CW2/C, a total sum of Rs.50,000/- has been agreed to be paid to me by the petitioner no.1, of which, a sum of Rs.30,000/- has already been received by me previously and the balance sum of Rs.20,000/- has now been handed over to me by the petitioner no.1 vide a Bankers Cheque bearing no.750516 dated 11.03.2020 in my favour drawn on the State Bank of India, the copy of the same is on the record as Ex.CW2/E. There are no claims of

Signature
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Signing
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digitally signed by
PS to HMJ ANU
MALHOTRA.

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 petitioner nos.1 & 3 seeking the quashing of the FIR No.49/2014, PS Mayur Vihar registered under Sections 354A/323/342/506/34 of the Indian Penal Code, 1860 nor do I want the petitioners to be punished in relation thereto. I have now come to know that the petitioner no.2 has since expired.

I have studied upto standard 10th.

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
12.03.2020

ANU MALHOTRA, J

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