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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 1768/2019 and Crl.M.A. No.7123/2019

VASUDEV THAKUR & ORS Petitioners
Through: Petitioners in person.

versus

STATE & ANR Respondents
Through: Mr. Sanjeev Sabharwal, APP for State
With SI Ganesh Kumar, PS Dwarka
South
Respondent No.2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **02.03.2020**

The Investigating Officer of the case is present and has identified the petitioner No.1 Vasudev Thakur present in the Court today and the identity proofs of the petitioners No.2 and 3, namely, Chaturbhuj Thakur and Smt. Rekha, as being the accused arrayed in FIR No.746/2014 PS Dwarka (South), registered under Sections 498A/406/34 of the Indian Penal Code and he has also identified the respondent No.2 as being the complainant of the said FIR.

Vide the present petition, the petitioners seek quashing of the FIR No. 746/2014 PS Dwarka (South), 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 parties at the Mediation Centre, Dwarka Courts North, vide a settlement document dated 5.1.2019, the certified copy of which is Ex.CW-2/C and

pursuant to which the marriage between the petitioner No.1 and the respondent No.2 has since been dissolved vide a decree of divorce through mutual consent dated 14.3.2019 in HMA No.513/19, of the Court of the Judge, Family Courts, Dwarka Courts and the copy of which decree sheet is EX.CW-2/D and it has thus been submitted through the present petition that no useful purpose would be served by the continuation of the proceedings qua the FIR in question.

The proceedings on the record show that despite service of the respondent No.2, she had not been appearing previously and a submission had been made on behalf of the petitioner that the entire amount in terms of the mediation settlement has since been paid and she was not coming forth to abide by the said settlement and the State was thus directed to submit a status report of the entire payment of the settlement amount of Rs.3,20,000/- and also in view of the factum of the dissolution of marriage between them as indicated on the record in HMA No.513/19 had been on record.

The status report submitted on behalf of the State affirms the factum of settlement arrived at between the petitioners and the respondent No.2 as well as the factum of receipt of the sum of Rs.3,20,000/- by the respondent No.2 from the petitioners. To similar effect is the statement made by the respondent No.2 in reply to specific court queries. On examination on oath, she has further stated to the effect that the petitioner No.1 has since remarried and so has she, and thus she does not oppose the prayer made by the petitioners seeking quashing of FIR No. 746/2014 PS Dwarka (South), registered under Sections 498A/406/34 of the Indian Penal Code,

1860. She has further stated that she has studied till B.A. (Ist Year) and is a house wife and she has understood the implications of the statement made by her and that she has so stated voluntarily of her own accord without any duress, pressure or coercion from any quarter.

On behalf of the State there is no opposition to the prayer made by the petitioners in view of the deposition of the respondent No.2 in as much as the FIR has emanated from 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 the respondent no.2 has categorically stated that there are no claims of hers left against the petitioners, 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.746/2014 PS Dwarka (South), registered under Sections 498A/406/34 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 02, 2020/SV

Item No. 15

CrI.M.C. No. 1768/2019

VASUDEV THAKUR & ORS. V. STATE & ANR.

**CW-1 SI GANESH KUMAR, PS DWARKA SOUTH
ON S.A.**

I identify the petitioner No.1 Vasudev Thakur present in the Court today and the identity proofs of the petitioners No.2 and 3, namely, Chaturbhuj Thakur and Smt. Rekha, as being the accused arrayed in FIR No.746/2014 PS Dwarka (South), registered under Sections 498A/406/34 of the Indian Penal Code present in the Court today. I also identify the respondent No.2 as being the complainant of the said FIR.

ANU MALHOTRA, J

**RO & AC
2.3.2020.**

Item No. 15

CrI.M.C. No. 1768/2019

VASUDEV THAKUR & ORS. V. STATE & ANR.

**CW-2 MS.SANTOSH THAKUR D/O SH. SHANKAR THAKUR R/O
E-89, E BLOCK, SECTOR-1 DWARKA, NEW DELHI.
ON S.A.**

I have brought my original proof of identity, i.e. Aadhar Card. The copy of the same is EX.CW-2/A .

My affidavit in support of the averments made in the petitions bears my signatures at points A and B thereon on Ex.CW-2/B. The settlement document dated 5.1.2019 arrived at between me and the petitioner No.1 bears my signatures as visible at point A thereon on each page. The copy of which is Ex.CW-2/C. I have signed these documents voluntarily of my own accord without any duress, pressure or coercion from any quarter. In terms of 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 through mutual consent under Section 13-B(2) of the Hindu Marriage Act, 1955 dated 14.3.2019 in HMA No. 513/19 of the Court of the Judge, Family Courts, Dwarka Courts. The certified copy of the decree of divorce is EX.CW-2/D. In terms of the settlement arrived at between me and the petitioner No.1 a sum of Rs.3,20,000/- was to be paid to me by the petitioner No.1 which sum has been received by me previously and now there are no claims of mine left against the petitioners. In view thereof I do not oppose the prayer made by the petitioners No. 1 to 3, namely, Vasudev Thakur, Chaturbhuj Thakur and Smt. Rekha seeking quashing of FIR No.746/2014 PS Dwarka (South), registered under Sections 498A/406/34 of

the Indian Penal Code nor do I want the petitioners to be punished in relation thereto. There were no children of the wedlock between me and the petitioner No.1. The petitioner No.1 has since re-married and so have I.

I have done my B.A. (Ist Year) and I am a housewife. I have understood the implications of the statement made by me. I have stated so voluntarily of my own accord without any duress, pressure or coercion from any quarter.

ANU MALHOTRA, J

RO & AC
2.3.2020.