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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1892/2019**

YOGESH KUMAR & ORS.

..... Petitioners

Through: Petitioner nos.1 & 3 to 5 in person
with Mr. Keshav Yadav & Ms.
Anjali, Advocates.

versus

STATE & ANR.

..... Respondents

Through: Mr. Kewal Singh Ahuja, APP for
State with SI Ashish Sharma, PS
Welcome.
R-2 in person with Mr. Keshav Garg,
Mr. Santosh Kumar, Advocates for R-
2.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **13.03.2020**

The petitioner nos. 1 & 3 to 5 are present in person. The petitioner no.2 is not present and it had been submitted on 21.01.2020 that the petitioner no.2 was suffering from cancer, as a consequence thereof, the other petitioners and the respondent no.2 were directed to be present today.

The deposition of the Investigating Officer of the case has already been recorded on 21.01.2020 whereby he has identified the petitioner no.1 & 2 and was unable to identify the petitioner nos. 3 to 5 through their proof of

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identities placed on the record. The Investigating Officer who is also present today in Court has identified the petitioner nos.1 & 3 to 5 present today in Court and the proof of identity of the petitioner no.2 placed at page 49 of the petition as being the five accused arrayed in the FIR No.126/2016, PS Welcome under Sections 498A/406/34 of the Indian Penal Code, 1860 and he has also identified the respondent no.2 Ms. Deepika 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 deposition on oath has affirmed having signed her affidavits dated 12.09.2019 and 07.01.2020 at points A & B on Ex.CW2/B & Ex.CW2/C respectively as well as the settlement dated 29.11.2017 that has been arrived at between her and the petitioner no.1 at the Delhi Mediation Centre, KKD Courts, Delhi at point A on Ex.CW2/D, qua 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 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, 1955 in HMA Petition No.708/2018 vide a decree dated 31.07.2018 of the Court of the Principal Judge, Family Court, Shahdara, KKD Courts, Delhi, copy of which is on the record as Ex.CW2/E and further states that in terms of the settlement arrived at between her and the petitioner no.1, copy of which is on the record as Ex.CW2/D, a total sum of Rs.21,00,000/- (Rupees Twenty One Lacs) had been agreed to be paid to her by the petitioner no.1, out of which a sum of Rs.15,00,000/- (Rupees Fifteen Lacs) has been received by her

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previously and the balance sum of Rs.6,00,000/- (Rupees Six Lacs) has now been handed over to her vide a demand draft bearing No.230960 dated 08.04.2019 since revalidated on 11.03.2020, copy 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 and that she does not oppose the prayer made by the petitioners seeking the quashing of the FIR No.126/2016, PS Welcome under Sections 498A/406/34 of the Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act, 1961 nor does she want the petitioners to be punished in relation thereto.

In view of the affidavit of the respondent no.2 having been filed pursuant to proceedings dated 12.12.2019, whereby the petitioner no.1 has categorically stated through his additional affidavit as submitted now dated 10.01.2020 that the terms of the mediation settlement would not be an embargo to the minor child born of the wedlock between the petitioner no.1 and the respondent no.2 seeking her claims against the petitioner no.1 qua maintenance or otherwise in accordance with law. To similar effect is the statement made by the petitioner no.1 on oath in replies to specific Court queries.

As there appears no reason to disbelieve the statement made by the respondent no.2 that she has arrived at the settlement with the petitioners voluntarily of her own accord, for maintenance of peace and harmony between the parties it is considered appropriate to put a quietus to the litigation between the parties and for the well being of the minor child born of the wedlock between the petitioner no.1 and 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:

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“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***

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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.126/2016, PS Welcome under Sections 498A/406/34 of the Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act, 1961 and all consequential proceedings emanating therefrom against the petitioner no.1 Yogesh Kumar, petitioner no.2 Kishan Singh Tomar, petitioner no.3 Vedwati, petitioner no.4 Vinay Tomar and petitioner no.5 Geeta Tomar @ Anjali are thus, quashed.

The petition is disposed of.

ANU MALHOTRA, J

MARCH 13, 2020/NC

IN THE HIGH COURT OF DELHI: NEW DELHI

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YOGESH KUMAR & ORS. Vs. STATE & ANR

13.03.2020

CW-1 SI Ashish Sharma, PS Welcome.

ON S.A.

I identify the petitioner no.1 Yogesh Kumar, petitioner no.3 Vedwati, petitioner no.4 Vinay Tomar and petitioner no.5 Geeta Tomar @ Anjali and the proof of identity of the petitioner no.2 Kishan Singh Tomar as being the five accused arrayed in the FIR No.126/2016, PS Welcome under Sections 498A/406/34 of the Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act, 1961 and I also identify the respondent no.2 Ms. Deepika as being the complainant thereof.

RO & AC
13.03.2020

ANU MALHOTRA, J

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YOGESH KUMAR & ORS. Vs. STATE & ANR

13.03.2020

**CW-2 Deepika Rana, d/o Sh. Madan Pal Rana, age 35 years, r/o W-239
Nehru Gali No.8, Babarpur, Shahdara, Delhi-110032.**

ON S.A.

I have brought my original proof of identity, photocopy of which is on the record as Ex.CW2/A (original seen and returned.)

My affidavits dated 12.09.2019 and 07.01.2020 both bear my signatures at points A & B on Ex.CW2/B & Ex.CW2/C respectively. A settlement dated 29.11.2017 has been arrived at between me and the petitioner no.1 at the Delhi Mediation Centre, KKD Courts, Delhi which also bears my signatures as visible at point A on Ex.CW2/D, I have signed these documents voluntarily of my own accord without any duress, coercion or pressure from any quarter.

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, 1955 in HMA Petition No.708/2018 vide a decree dated 31.07.2018 of the Court of the Principal Judge, Family Court, Shahdara, KKD Courts, Delhi, copy of which is on the record as Ex.CW2/E. In terms of the settlement arrived at between me and the petitioner no.1, copy of which is on the record as Ex.CW2/D, a total sum of Rs.21,00,000/- (Rupees Twenty One Lacs) had been agreed to be paid to me by the petitioner no.1, out of which a sum of Rs.15,00,000/- (Rupees Fifteen Lacs) has been received by me previously and the balance sum of Rs.6,00,000/- (Rupees Six Lacs) has now been handed over to me vide a demand draft bearing No.230960 dated

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08.04.2019 since revalidated on 11.03.2020, copy 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 thus, do not oppose the prayer made by the petitioners seeking the quashing of the FIR No.126/2016, PS Welcome under Sections 498A/406/34 of the Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act, 1961 nor do I want the petitioners to be punished in relation thereto.

I am a post graduate and I run a boutique.

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
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YOGESH KUMAR & ORS. Vs. STATE & ANR

13.03.2020

ON S.A.

CW-3 Yogesh Kumar, s/o Sh. Kishan Singh Tomar, age 38 years, r/o 384, Rajpoot Mohalla, Khajoor Wali Gali, Ghonda, Delhi-110053.

The mediation settlement dated 29.11.2017 copy of which is on the record as Ex.CW2/D bears my signatures as visible at point B. My additional affidavit dated 10.01.2020 submitted pursuant to proceedings dated 12.12.2019 also bears my signatures at points A & B on Ex.CW3/A, I have signed these documents voluntarily of my own accord without any duress, coercion or pressure from any quarter.

I state thereby that the terms of the mediation settlement dated 29.11.2017 to the extent of relinquishment of the rights of my minor daughter born of the wedlock between me and the respondent no.2 against me be treated as null and void and I state that my minor daughter would be entitled to seek her claims against me qua maintenance or otherwise in accordance with law.

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
13.03.2020

ANU MALHOTRA, J

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