

\$~27

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 2186/2019**

SH. ADESH MAHESHWARI Petitioner
Through: Mr.Anurag S. Tomar, Advocate

versus

STATE & ANR. Respondents
Through: Mr.Raghuvinder Varma, APP for
State with SI Rahul Kumar PS
Shakarpur
Respondent No.2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **30.01.2020**

Vide the present petition, the petitioner seeks quashing of the FIR No. 757/2016 PS Shakarpur, registered under Sections 498A/406 of the Indian Penal Code, 1860 submitting to the effect that a settlement has been arrived at between the parties before the Counselling Cell of the Family Court, East District, Karkardooma Courts dated 2.2.2018, copy of which is Ex.CW-2/D pursuant to which the marriage between the petitioner and the respondent No.2 has since been dissolved vide a decree of divorce through mutual consent during the proceedings under Section 13B(1) and 13B(2) of the Court of the Principal Judge, Family Courts, East District, Karkardooma Courts dated 7.12.2018 in HMA No. 2362/2018 and the copy of the decree sheet in relation thereto is Ex.CW-2/F and that no useful purpose would be served by the continuation of the

proceedings in relation to the said FIR.

The Investigating Officer has identified the petitioner as being the accused arrayed in the FIR in question present in the Court today and has also identified the respondent No.2 as being the complainant of the said FIR.

The respondent No.2 on being examined on oath by the Court has brought her original proof of identity, i.e. Aadhar Card and affirmed having signed her affidavits dated 9.4.2019 and 24.1.2020 in support of the averments made in the petition Ex.CW-2/B and EX.CW-2/B and the settlement arrived at between her and the petitioner during the course of proceedings under the Hindu Marriage Act, 1955, in HMA 2362/2018 on 2.2.2018 at the counselling Cell of the Family Court, East District, Karkardooma Courts and the copy of the said settlement document Ex.CW-2/D voluntarily of her own accord without any duress, pressure or coercion from any quarter. She further testified to the effect that in terms of the settlement arrived at between her and the petitioner, a total sum of Rs.1,50,000/- was to be paid to her by the petitioner of which Rs.1,00,000/- has already been received by her previously and the balance sum of Rs.50,000/- has been handed over to her today during the course of present proceedings vide a demand draft dated 28.1.2020 bearing No. 375095 for a sum of Rs.50,000/- drawn on Syndicate Bank in her favour EX.CW-2/E and that there are now no claims of hers left against the defendant. She further stated that in terms of the settlement the marriage between her and the petitioner No.1 has since been dissolved vide a decree of divorce through mutual consent

during the proceedings under 13B(2) of the Hindu Marriage Act, 1955 vide a decree of divorce of the Court of the Principal Judge, Family Courts, East District, Karkardooma Courts dated 7.12.2018 in HMA No. 2362/2018 and the copy of the decree sheet in relation thereto is Ex.CW-2/F. She further stated that in terms of the settlement arrived at between her and the petitioner, the two children born of the wedlock are in the custody of the petitioner. She further stated that in terms of the settlement arrived at between her and the petitioner she does not oppose the prayer made by the petitioners seeking quashing of the FIR No. 757/2016 PS Shakarpur, registered under Sections 498-A/406 IPC nor does she want the petitioner to be punished in relation thereto. She further testified to the effect that she has studied till standard Xth and 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 seeking the quashing of the FIR in question in view of the settlement arrived at between the parties and the deposition of 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 petitioner voluntarily of her own accord without any duress, pressure or coercion from any quarter. In view of the statement made by the respondent no.2 and the non-opposition on behalf of the State 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 in as much as the respondent no.2 has categorically stated that there are no claims of hers left against 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. 757/2016 PS Shakarpur, registered under Sections 498A/406 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioners are thus quashed.

The petition is disposed of.

ANU MALHOTRA, J

JANUARY 30, 2020/SV

ITEM NO. 27

CRL.M.C. No.2186/2019

ADESH MAHESHWARI V. STATE & ANR.

CW-1 SI RAHUL KUMAR POLICE STATION SHAKARPUR

ON S.A.

I identify the petitioner as being the accused arrayed in FIR No. 757/2016 PS Shakarpur, registered under Sections 498A/406 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

30.1.2020.

ITEM NO. 27

CRL.M.C. No.2186/2019

ADESH MAHESHWARI V. STATE & ANR.

**CW-2 MS JYOTI GUPTA, D/O SH. P.R. GUPTA, AGED 45 YEARS,
R/O D-353, GALI No.13, LAXMI NAGAR, DELHI
ON S.A.**

I have brought my original proof of identity, i.e. Aadhar Card. The copy of the same be placed on record.

My affidavits dated 9.4.2019 and 24.1.2020 in support of the averments made in the petition bear my signatures at points A and B thereon on Ex.CW-2/B and EX.CW-2/B. A settlement was arrived at between me and the petitioner during the course of proceedings under Hindu Marriage Act, 1955, in HMA 2362/2018 on 2.2.2018 at the counselling Cell of the Family Court, East District, Karkardooma Courts and the copy of the said settlement document bears my signatures thereon at point A on Ex.CW-2/D. In terms of the settlement arrived at between me and the petitioner, a total sum of Rs.1,50,000/- was to be paid to me by the petitioner of which Rs.1,00,000/- has already been received by me previously and the balance sum of Rs.50,000/- has been handed over to me today vide a demand draft dated 28.1.2020 bearing No. 375095 for a sum of Rs.50,000/- drawn on Syndicate Bank in my favour. The copy of the same is EX.CW-2/E. There are no claims of mine left against the defendant. In terms of the settlement the marriage between me and he petitioner No.1 has since been dissolved vide a decree of divorce through mutual consent during the proceedings under Section 13B(1) and 13B(2) of the Court of the Principal Judge, Family Courts, East District, Karkardooma Courts dated 7.12.2018 in HMA No.

2362/2018 and the copy of the decree sheet in relation thereto is Ex.CW-2/F. In terms of the settlement, the two children born of the wedlock are in the custody of the petitioner.

In terms of the settlement arrived at between me and the petitioner I do not oppose the prayer made by the petitioners seeking quashing of the FIR No. 757/2016 PS Shakarpur, registered under Sections 498-A/406 IPC nor do I want the petitioner to be punished in relation thereto.

I have studied till standard Xth. 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
30.1.2020.