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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 1087/2020**

SAURABH ARORA AND OTHERS

..... Petitioners

Through: Petitioners in person with Mr.Jitender
Verma, Advocate.

Versus

STATE NCT OF DELHI AND ANR

.....Respondents

Through: Ms.Kamna Vohra, ASC with Ms.Shefali
Vohra, Advocate with SI Jawahar.
R-2 in person with Mr.Tripurari Tiwari,
Mr.Shivam Malhotra & Mr.Rahul
Kumar, Advocates for R-2.

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

10.08.2020

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(hearing through Video Conferencing)

Vide the present petition, the petitioner nos. 1 to 3 i.e. petitioner no.1 Mr.Saurabh Arora, petitioner no.2 Smt. Sushma Arora and petitioner no.3 Sh.Raj Kumar Arora seek the quashing of the FIR No.530/2018, PS Burari registered under Sections 498A/406/34 of the Indian Penal Code, 1860 submitting to the effect that a settlement has since been arrived at between the parties and that all claims of the respondent no.2 have been settled and that 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 is present through Video

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Conferencing and has identified the petitioner nos. 1 to 3 i.e. petitioner no.1 Mr.Saurabh Arora, petitioner no.2 Smt. Sushma Arora and petitioner no.3 Sh.Raj Kumar Arora as being the three accused persons arrayed in the FIR No.530/2018, PS Burari registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and he has also identified the respondent no.2 Ms.Radhika Arora as being the complainant of the said FIR.

The respondent No.2 in reply to a specific Court query has affirmed the factum of the settlement having been arrived at between her and the petitioner No.1 on 25.10.2019 and further submits that pursuant to the said settlement, she has received the entire settled amount of Rs.9,25,000/- that has been agreed to be paid to her by the petitioner No.1 and she further submits that there are now no claims of hers left against the petitioners and that the minor child namely Yug Arora born of the wedlock between her and the petitioner no.1 is in her custody. The respondent No.2 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.244/2020 vide a decree dated 24.02.2020 of the Court of the learned Principal Judge, Family Court, Central District, THC, Delhi. The respondent No.2 further submits that thus in view of the settlement arrived at between her and petitioners she does not oppose the prayer made by the petitioner Nos. 1 to 3 seeking the quashing of the FIR in question nor does she want the petitioners to be punished in relation thereto.

The respondent No.2 further submits that she has done her graduation and has made her statement voluntarily of her own accord without any duress, pressure or coercion from any quarter and after

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understanding the implications of the statement made by her, in as much as, vide the settlement document dated 25.10.2019 vide para 12 thereof, it had been agreed between the parties to the effect:-

“The above settlement is with respect to all claims of wife past, present and future alimony, stridhan maintenance, pending amount of maintenance, articles, property etc. and neither she nor her relatives shall claim anything from husband or his family members in future for herself or on behalf of child/children.”,

whereby, it had been mentioned to the effect that the settlement that had taken place was qua all claims of the wife past, present and future alimony, stridhan, maintenance, pending amount of maintenance, articles, property etc. and also in relation to the minor child born of the wedlock between the petitioner no.1 and the respondent no.2 and neither the respondent no.2 nor her relatives should claim anything from the petitioner no.1 or his family members in future for herself or on behalf of the minor child, which specific term in relation to the rights of the minor child having been settled by the respondent no.2 and the petitioner no.1 not being in consonance with law as laid down by the Hon'ble Supreme Court in Civil Appeal 4031-4032/2019 arising out of SLP (C) Nos.32868-32869/2018 titled as ***Ganesh Vs. Sudhirkumar Shrivastava & Ors.*** vide the verdict dated 22.04.2019 as adhered to and followed by this Court in ***Rakesh Jain & Ors. vs. State & Anr.*** in CRL.M.C. 2935/2019 dated 06.09.2019, the petitioners were thus, directed to file their affidavits on the record specifying to the effect that they would have no objection to the minor child namely Yug Arora born of the wedlock between the petitioner no.1 and the respondent no.2 seeking his rights to seek maintenance or

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otherwise in accordance with law against the petitioners.

The said affidavits dated 22.07.2020 of the petitioner nos. 1 to 3 have been placed on the record, vide which the petitioners have stated that they have no objection to the minor child Yug Arora seeking his claims qua maintenance, education as per law against them. The petitioners have also stated through their respective affidavits that the clause 12 of the settlement agreement dated 25.10.2019 between the parties relates only to the agreement in relation to the claims of the respondent no.2 and the petitioners.

The petitioner nos. 1 to 3 in their statements on oath in reply to specific Court queries of the Court have also affirmed and stated that they undertake to abide by the contents of their respective affidavits dated 22.07.2020 and would have no objection to the minor child Yug Arora seeking his claims against them in accordance with law.

In view of the statement made by the respondent No.2 duly identified by the Investigating Officer, there appears no reason to disbelieve the statement of the respondent no.2 that she has arrived at a settlement with the petitioners voluntarily, she being a graduate and has stated that she understands the implications of her statement with their being no opposition on behalf of the State to the prayer made by the petitioners seeking quashing of the FIR in question, 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 and the minor child, 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

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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

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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 these circumstances for maintenance of peace and harmony between the parties, thus the FIR No.530/2018, PS Burari registered under Sections 498A/406/34 of the Indian Penal Code, 1860 against the petitioner nos. 1 to 3 i.e. petitioner no.1 Mr.Saurabh Arora, petitioner no.2 Smt. Sushma Arora and petitioner no.3 Sh.Raj Kumar Arora and all consequential proceedings emanating therefrom are thus quashed.

The petition is disposed of.

ANU MALHOTRA, J

AUGUST 10, 2020

‘neha chopra’

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SAURABH ARORA AND OTHERS. VS. STATE NCT OF DELHI AND ANR

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CW-1 SI Jawahar, PS Burari.

ON S.A.

I identify the petitioner nos. 1 to 3 i.e. petitioner no.1 Mr.Saurabh Arora, petitioner no.2 Smt. Sushma Arora and petitioner no.3 Sh.Raj Kumar Arora as being the three accused persons arrayed in the FIR No.530/2018, PS Burari registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and I also identify the respondent no.2 Ms.Radhika Arora as being the complainant thereof.

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SAURABH ARORA AND OTHERS. VS. STATE NCT OF DELHI AND ANR

10.08.2020

CW-2 Ms.Radhika Arora, d/o Ravi Kumar Makan, age 29 years, r/oB-442, Street No.17, Sant Nagar, Second Floor, Burari-110084.

ON S.A.

In view of the settlement arrived at between me and the petitioners, I have received the total settled sum of Rs.9,25,000/- from the petitioners as per the Counselling Cell, Family Court settlement dated 25.10.2019. There are now no claims of mine left against the petitioners. The minor child born of the wedlock between me and the petitioner no.1 namely Yug Arora is in my custody.

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.244/2020 vide a decree dated 24.02.2020 of the Court of the learned Principal Judge, Family Court, Central District, THC, Delhi. In view thereof, I do not oppose the prayer made by the petitioners seeking the quashing of the FIR No.530/2018, PS Burari registered under Sections 498A/406/34 of the Indian Penal Code, 1860 nor do I want the petitioners to be punished in relation thereto.

I am a graduate and I earlier used to work as an Assistant Manager in Indian Mart, Noida and presently I am taking care of my child.

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

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SAURABH ARORA AND OTHERS. VS. STATE NCT OF DELHI AND ANR

10.08.2020

CW-3 Mr. Saurabh Arora, s/o Sh.Raj Kumar Arora, age 35 years, r/o 13/200, New Moti Nagar, Karampura, Delhi-110015.

ON S.A.

I undertake to abide by the contents of my affidavit dated 22.07.2020 in relation to the minor child born of the wedlock between me and the respondent no.2 seeking his rights/claims against me and the petitioner nos.2 & 3, 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.

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SAURABH ARORA AND OTHERS. VS. STATE NCT OF DELHI AND ANR

10.08.2020

CW-4 Smt. Sushma Arora, w/o Sh.Raj Kumar Arora, age 61 years, r/o 13/200, New Moti Nagar, Karampura, Delhi-110015.

ON S.A.

I undertake to abide by the contents of my affidavit dated 22.07.2020 in relation to the minor child born of the wedlock between my son i.e. the petitioner no.1 herein and the respondent no.2 seeking his rights/claims against me and the petitioner nos.1 & 3, 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.

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SAURABH ARORA AND OTHERS. VS. STATE NCT OF DELHI AND ANR

10.08.2020

CW-5 Sh.Raj Kumar Arora, s/o late Sh.B.D.Arora, age 63 years, r/o 13/200, New Moti Nagar, Karampura, Delhi-110015.

ON S.A.

I undertake to abide by the contents of my affidavit dated 22.07.2020 in relation to the minor child born of the wedlock between my son i.e. the petitioner no.1 herein and the respondent no.2 seeking his rights/claims against me and the petitioner nos.1 & 2, 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.

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