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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 2288/2019**

NITISH KUMAR & ORS

..... Petitioners

Through: Petitioner nos. 1 & 3 in person with

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Ms. Meenakshi Dahiya, APP for
State with SI Suresh Kumar, PS
Inderpuri.
R-2 in person with

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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18.02.2020

Vide the present petition, the petitioners seek the quashing of the FIR No.121/2018, PS Inderpuri 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 and that the petitioner no.1 and the respondent no.2 are living together along with their two minor children for the last 6/7 months and no useful purpose would be served by the continuation of the proceedings in relation to the present FIR.

The Investigating Officer of the case is present and has identified the petitioner no.1 Nitish Kumar and petitioner no.3 Ram Narain Sahani present today in Court as being two of the accused arrayed in the FIR No.121/2018,

PS Inderpuri registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and he has identified the proofs of identities of the petitioner no.2 Urmila, petitioner no. 4 Neha, petitioner no.5 Bhawana, petitioner no.6 Kiran and petitioner 7 Vinod placed on the record of the present petition as being the other accused arrayed in the said FIR. He has further stated that he has also identified the respondent no.2 Ms. Madhu 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 examination on oath by the Court has affirmed having signed her affidavits dated 16.01.2020 and 13.02.2020 in support of the averments made in the petition at points A & B on Ex.CW2/B and Ex.CW2/C respectively, 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 she is living with the petitioner no.1 along with their two children born of the wedlock between her and the petitioner no.1 for the last 6/7 months without any problems now. She has further stated that in view of the settlement arrived at between her and the petitioners, she does not oppose the prayer made by the petitioner nos. 1 to 7 seeking the quashing of the FIR No.121/2018, PS Inderpuri registered under Sections 498A/406/34 of the Indian Penal Code, 1860 nor does she want them to be punished in relation thereto.

In reply to a specific Court query, the respondent no.2 has stated that she has studied till Standard XII and has understood the implications of the statement made by her and that she has arrived at a settlement with the

petitioners voluntarily of her own accord.

The status report dated 18.02.2020 has been submitted on behalf of the State which also corroborates the factum of the petitioner no.1 and the respondent no.2 living together and that thus, there is no opposition on behalf of the State as well to the prayer made by the petitioners seeking the quashing of the FIR in question.

In the circumstances, in as much as, the FIR has apparently emanated from a matrimonial discord which has since been resolved by the reconciliation between the petitioner no.1 and the respondent no.2, it is considered appropriate in the interest of justice for maintenance of peace and harmony between the petitioners and the respondent no.2 as well as for the well being of the respondent no.2 to put a quietus to the litigation between the parties 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),

In view thereof, the FIR No.121/2018, PS Inderpuri registered under

Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioner no.1 Nitish Kumar, petitioner no.2 Urmila, petitioner no.3 Ram Narain Sahani, petitioner no. 4 Neha, petitioner no.5 Bhawana, petitioner no.6 Kiran and petitioner 7 Vinod are thus quashed.

The petition is disposed of.

ANU MALHOTRA, J

FEBRUARY 18, 2020

'neha chopra'

IN THE HIGH COURT OF DELHI: NEW DELHI

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CRL.M.C. 2288/2019

NITISH KUMAR & ORS. VS. STATE & ANR.

18.02.2020

CW-1 SI Suresh Kumar, PS Inderpuri.

ON S.A.

I identify the petitioner no.1 Nitish Kumar and petitioner no.3 Ram Narain Sahani present today in Court as being two of the accused arrayed in the FIR No.121/2018, PS Inderpuri registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and I identify the proofs of identities of the petitioner no.2 Urmila, petitioner no. 4 Neha, petitioner no.5 Bhawana, petitioner no.6 Kiran and petitioner 7 Vinod placed on the record of the present petition as being the other accused arrayed in the said FIR.

I also identify the respondent no.2 Ms. Madhu as being the complainant of the said FIR.

RO & AC
18.02.2020

ANU MALHOTRA, J

IN THE HIGH COURT OF DELHI: NEW DELHI

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CRL.M.C. 2288/2019

NITISH KUMAR & ORS. VS. STATE & ANR.

18.02.2020

CW-2 Ms. Madhu, w/o Mr. Nitish Kumar, d/o Sh. Bindeswar Sahani, age 23 years, r/o I.A.R.R., Pusa Campus, New Delhi.

ON S.A.

I have brought my original proof of identity, photocopy of which is on the record as Ex.CW2/A. My affidavits dated 16.01.2020 and 13.02.2020 in support of the averments made in the petition bear my signatures at points A & B on Ex.CW2/B and Ex.CW2/C respectively, I have signed these documents voluntarily of my own accord without any duress, coercion or pressure from any quarter.

I am living with the petitioner no.1 for the last 6/7 months without any problems now. There are two children born of the wedlock between me and the petitioner no.1 who live with us and there are now no problems between me and the petitioners. In view of the settlement arrived at between me and the petitioners, I do not oppose the prayer made by the petitioners seeking the quashing of the FIR No.121/2018, PS Inderpuri registered under Sections 498A/406/34 of the Indian Penal Code, 1860 nor do I want them to be punished in relation thereto.

I have studied upto Standard XII.

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
18.02.2020

ANU MALHOTRA, J