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

+ CRL.M.C. 3028/2019 & CRL.M.A. 12196/2019

TEJPAL & ORS

..... Petitioners

Through: Petitioner no.1 in person with Mr. Ranjeet Singh, Mr. Kailash Pandey & Ms. Sushmita Mishra, Advocates.

versus

STATE OF NCT & ANR

..... Respondents

Through: Mr. Kewal Singh Ahuja, APP for State with SI Shiksha, PS Sector-23, Dwarka.
R-2 in person with Mr. Hari Shankar, Advocate for R-2.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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17.01.2020

Vide the present petition, the petitioners seek the quashing of the FIR No.79/2013, PS Sector-23, Dwarka 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 no useful purpose would be served by the continuation of the proceedings in relation to the present FIR.

The petitioner nos. 2 & 3 are not present and it is submitted by the learned counsel for the petitioners to the effect that the petitioner no.3 is aged 90 years and not in a position to move and thus, the petitioner no.2 has been unable to come, in as much as, she is looking after her. The Investigating Officer of the case is present and has identified the petitioner no.1 Tejpal present today in Court as being one of the accused arrayed in the FIR No. 79/2013, PS Sector-23, Dwarka registered under

Sections 498A/406/34 of the Indian Penal Code, 1860 and he has also identified the petitioner no. 2 Smt. Renu & petitioner no.3 Smt. Gango Devi through their proofs of identities placed at pages 16 & 17 of the record. The presence of the petitioner nos. 2 & 3 is thus, exempted for today through counsel representing them.

The Investigating Officer has further submitted that the other accused arrayed in the FIR named Vijay Pal had already expired on 04.01.2013 and the death certificate has been placed on record as issued by the Registrar, Birth and Deaths, Municipal Corporation, Gurugram which has been submitted along with the status report dated 15.01.2020 issued under the signatures of the SHO, PS Sector-23, Dwarka. The Investigating Officer has also identified the respondent no.2 Ms. Sangeeta as being the complainant of the said FIR.

The respondent no.2 in her deposition on oath by the Court in replies to specific Court queries has affirmed the factum of the dissolution of her marriage with the petitioner no.1 vide proceedings under Section 13B of the HMA, 1955 in HMA Petition No.645/2016 before the Court of the District Judge, Family Court, Gurugram and the copy of the said decree dated 10.03.2017 is placed on the record as Ex.CW2/A and as well has affirmed her signatures on the joint statement made by her and the petitioner no.1 during the course of the said proceedings before the Court of the District Judge, Family Court, Gurugram, copy of which is on the record as Ex.CW2/B, on which she has stated that she signed these documents voluntarily of her own accord without any duress, coercion or pressure from any quarter. She has produced her proof of identify in the form of her

original Aadhaar Card, photocopy of which has been placed on the record. The respondent no.2 has further testified to the effect that in terms of the settlement that has been arrived at between her and the petitioner no.1 before the Court of the District Judge, Family Court, Gurugram as stated by her, there are now no claims of any maintenance, alimony or any right in the property of the petitioners of hers left and she has further stated that there is no child born out of the wedlock between her and the petitioner no.1. She has further testified to the effect that she has since remarried and that she has a child from the said wedlock and has further stated that in view of the settlement that has been arrived at between her and the petitioner no.1, she does not oppose the prayer made by the petitioner nos. 1 to 3 seeking the quashing of the FIR No.79/2013, PS Sector-23, Dwarka registered under Sections 498A/406/34 of the Indian Penal Code, 1860 nor does she want the petitioners to be punished in relation thereto.

The respondent no.2 is apparently well educated having done her Masters in Hindi and she states that she is a primary teacher in Kendriya Vidyalaya, there thus, appears no reason to disbelieve her statement that she has arrived at a settlement with the petitioners voluntarily of her own accord without any duress, coercion or pressure from any quarter and that she has understood the implications of the statement made by her.

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 that has been arrived at between the parties and in view of the statement made by the respondent no.2.

In as much as, the FIR has apparently emanated from a matrimonial

discord between the petitioner no.1 and the respondent no.2 which has since been resolved by the dissolution of the marriage between the petitioner no.1 and the respondent no.2 as observed hereinabove, 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),

In view thereof, the FIR No.79/2013, PS Sector-23, Dwarka registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioner nos. 1 to 3 i.e. petitioner no.1 Tejpal, petitioner no. 2 Smt. Renu & petitioner no.3 Smt. Gango Devi are thus, quashed.

The petition is disposed of.

ANU MALHOTRA, J

JANUARY 17, 2020/ ‘neha chopra’

IN THE HIGH COURT OF DELHI: NEW DELHI

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CRL.M.C. 3028/2019

TEJPAL & ORS. Vs. STATE & ORS.

17.01.2020

CW-1 W/SI Shiksha, PS Sector-23 Dwarka.

ON S.A.

I identify the petitioner no.1 Tejpal present today in Court as being one of the accused arrayed in the FIR No.79/2013, PS Sector-23, Dwarka registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and I also identify the petitioner no. 2 Smt. Renu & petitioner no.3 Smt. Gango Devi through their proofs of identities placed at pages 16 & 17 of the record. The other accused arrayed in the FIR named Vijay Pal has already expired on 04.01.2013 and the verification report in relation thereto has been submitted.

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

RO & AC
17.01.2020

ANU MALHOTRA, J

IN THE HIGH COURT OF DELHI: NEW DELHI

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CRL.M.C. 3028/2019

TEJPAL & ORS. Vs. STATE & ORS.

17.01.2020

CW-2 Ms. Sangeeta, d/o Shri Harichand, age 38 years, r/o Village Shahabad, Mohammadpur, Dwarka, Delhi.

ON S.A.

I have brought my proof of identify in the form of my original Aadhaar Card, photocopy of which is placed on the record.

The marriage between me and the petitioner no.1 has been dissolved vide a decree of divorce through mutual consent under Section 13B of the HMA vide a decree dated 10.03.2017 of the Court of the District Judge, Family Court, Gurugram in HMA Petition No.645/2016, copy of which is on the record as Ex.CW2/A. The joint statement made by me and the petitioner no.1 in the Court of the District Judge, Family Court, Gurugram in the proceedings under Section 13B(2) of the HMA, 1955 bears my signatures as visible at point A on Ex.CW2/B.

In terms of the settlement that has been arrived at between me and the petitioner no.1 before the Court of the District Judge, Family Court, Gurugram as stated by me, there are now no claims of any maintenance, alimony or any right in the property of the petitioners left that I claim. There is no child born out of the wedlock between me and the petitioner no.1.

I have since remarried and I have a child of the wedlock.

In view of the settlement that has been arrived at between me and the petitioner no1., I do not oppose the prayer made by the petitioner nos. 1 to 3

seeking the quashing of the FIR No.79/2013, PS Sector-23, Dwarka 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 have done my masters in Hindi and I teach in Kendriya Vidyalaya.

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
17.01.2020

ANU MALHOTRA, J