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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 3110/2019 and CrI.M.A. No. 12768/2019

ANAND NAIN & ORS Petitioners
Through: Mr.Dinesh Mudgil, Advocate

versus

THE STATE & ANR Respondents
Through: Mr.Kewal Singh Ahuja, APP for State
With SI Suraj Kumar, PS Kapashera,
SWD
Respondent No.2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **22.01.2020**

In terms of the proceedings dated 23.10.2019, the State has submitted a status report verifying the factum of stated demise of the petitioner No.1, i.e., Pawan Nain, the erstwhile spouse of the respondent No.2.

On behalf of the petitioner has also been submitted the certified copy of the decree of divorce dated 17.12.2014 in HMA No.845/2014 under Section 13B(1) and 13B(2) of the Hindu Marriage Act, 1955, of the Court of the Principal Judge, South-West, Family Courts, Dwarka Courts, the copy of which is Ex.CW-2/E.

The Investigating Officer is present and has identified the petitioners No.2 to 4 present in the Court today and the proof of identity of the petitioner No.1 placed on the record as being the co-accused arrayed in the FIR in question with it having been testified

through the Status report that the co-accused Pawan Nain has since expired. The Investigating Officer has also identified the respondent No.2 as being the complainant of the FIR in question.

The respondent No.2 in her examination on oath has brought her original proof of identify and has affirmed having signed her affidavit and the additional affidavit at points A and B on EX.CW-2/B and EX.CW-2/C respectively voluntarily of her own accord without any duress, pressure or coercion from any quarter. The respondent No.2 further states that in view of the settlement dated 26.4.2014 arrived at between her and Pawan Nain, since deceased, EX.CW-2/D a total sum of Rs.6,00,000/- had been agreed to be paid to her towards all her claims which amount has already been received by her and there are no claims of hers left against the petitioners. The respondent No.2 has further stated that the marriage between her and Pawan Nain, since deceased, has already been dissolved vide a decree of divorce through mutual consent dated 17.12.2014 under Sections 13B(1) and 13B(2) of the Hindu Marriage Act, 1955, in HMA No. 845/2014 of the Court of the Principal Judge, South-West, Family Courts, Dwarka Courts. The respondent No.2 further submits that in view of the settlement arrived at between her and the petitioners and the factum of demise of Pawan Nain, she does not oppose the prayer made by the petitioners No.1 to 4 seeking quashing of the FIR No.187/2013 under Sections 498A/406/34 IPC, 1860 PS Kapashera nor does she want them to be punished in relation thereto. The respondent No.2 further stated that she has since remarried and has a child from her second wedlock and she is happy. The respondent No.2 further stated

that she has done B.Ed. and used to teach earlier and has understood the implications of making any statement and that she has made her statement voluntarily of her own accord without any duress, pressure or coercion from any quarter.

On behalf of the State, in view of the settlement arrived at between the parties and the deposition of the respondent No.2, there is no opposition to the prayer made by the petitioners seeking quashing of the FIR in question.

There appears no reason to disbelieve the statement made by the respondent no.2 that she has arrived at a settlement with the petitioners 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 Pawan Nain, since deceased, the erstwhile spouse of the respondent No.2 in as much as the respondent no.2 has categorically stated that there are no claims of hers left against the petitioners, 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. 187/2013 under Sections 498A/406/34 IPC, 1860 PS Kapashera and all consequential proceedings emanating therefrom against the petitioners are thus quashed.

The petition is disposed of.

ANU MALHOTRA, J

JANUARY 22, 2020/SV

Item No. 19

CRL.M.C. 3110/2019

ANAND NAIN & ORS. V. STATE & ORS.

**CW-1 SI SURAJ KUMAR PS KAPASHERA
ON S.A.**

I identify the petitioners No. 2, 3 and 4, namely, Susheela Devi, Smt. Mukesh and Dalbir as being three accused arrayed as accused in FIR No. 187/2013 under Sections 498A/406/34 IPC, 1860 PS Kapashera and present in the Court today. I identify proof of identity of the petitioner No.1 Anand Nain placed at page No.151 of the petition as being the accused arrayed in the FIR in question. I also identify the respondent No.2 present in the Court today as being the complainant of the said FIR.

ANU MALHOTRA, J.

**RO & AC
22.1.2020**

Item No. 19

CRL.M.C. 3110/2019

ANAND NAIN & ORS. V. STATE & ORS.

**CW-2 NEERAJ RANA D/O OM PRAKASH RANA AGED 32 YEARS
R/O 385 VPO BIJWASAN, NEW DELHI.
ON S.A.**

I have brought my original proof of identity i.e. Election Commission Identity card. The photocopy of the same is EX.CW-2/A.

My affidavit dated 11.1.2019 and my additional affidavit dated 26.8.2019 annexed to the petition bear my signatures at points A & B on Ex.CW-2/B and EX.CW-2/C. The settlement dated 26.4.2014 arrived at between me and Pawan Nain, since deceased, bears my signatures thereon on each page as visible at point A on EX.CW-2/D. I have signed these documents voluntarily of my own accord without any duress, pressure or coercion from any quarter. In view of the settlement arrived between me and Pawan Nain, since deceased a total sum of Rs.6,00,000/- had been agreed to be paid to me by Pawan Nain, since deceased towards my all claims which amount has already been received by me. Pawan Nain, has since expired. The marriage between me and Pawan Nain, since deceased has since been dissolved vide a decree of divorce through mutual consent under Section 13-B(1) and 13-B(2) of the Hindu Marriage Act, 1955 dated 17.12.2014 Principal Judge, Dwarka Courts copy of which is EX.CW-2/E. There are now no claims of mine left against the petitioners. In terms of the settlement dated 26.4.2014 I do not oppose the prayer made by the petitioners No. 1 to 4 seeking quashing of the FIR No. 187/2013 under Sections 498A/406/34 IPC, 1860 PS Kapashera nor do I want the petitioners to be punished in relation thereto in as much as the person who had committed the offence has since

expired i.e. Pawan Nain and the petitioners No.1 to 4 were not at fault. I have also since remarried and I have a child from my second wedlock and I am happy. In view of the settlement arrived at between me and the petitioners and the factum of demise of Pawan Nain, I do not oppose the prayer made by the petitioners seeking quashing of the FIR No. 187/2013 under Sections 498A/406/34 IPC, 1860 PS Kapashera nor do I want the petitioners to be punished in relation thereto in view of the settlement arrived at between me and the petitioners.

I have done B.Ed. and used to teach earlier and have understood the implications of making any statement. I have made my statement voluntarily of my own accord without any duress, pressure or coercion from any quarter.

ANU MALHOTRA, J.

RO & AC
22.1.2020