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

+ **CRL.M.C. 3473/2019**

ADITYA MAHAJAN & ORS

..... Petitioners

Through: Petitioner nos. 2 & 3 in person with
Mr. Manmohan Swaroop & Ms.
Sanyogita Swaroop, Advocates.

versus

THE STATE & ANR

..... Respondents

Through: Ms. Meenakshi Dahiya, APP for State
with SI Yogesh, PS Ashok Vihar.
R-2 in person with Mr. Rajvardhan
Singh, Advocate for R-2.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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08.01.2020

Vide the present petition, the petitioners seek the quashing of the FIR No.38/2017, PS Ashok Vihar 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 at the Delhi Mediation Centre, Rohini District Courts, New Delhi on 20.03.2019 and that the marriage between the petitioner no.1 and the respondent no.2 has since been dissolved vide a decree of divorce through mutual consent in terms of Section 28(2) in SMA No.5/2019 vide a decree dated 01.06.2019 of the Court of the Principal Judge, Family Court, North West, Rohini, Delhi.

The Investigating Officer of the case is present and has identified Ms. Poonam Maheshwari as being the power of attorney holder of the petitioner no.1 namely Aditya Mahajan and the petitioner nos. 2 & 3 i.e. the petitioner CRL.M.C. 3473/2019

no.2 Pradeep Mahajan, petitioner no.3 Alka Mahajan present today in Court as being the three accused arrayed in the FIR No.38/2017, PS Ashok Vihar registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and has also identified the respondent no.2 Smt. Megha Purang as being the complainant of the said FIR. He has also stated that the name of the complainant is Smt. Megha Purang and not Pallavi and that the same has erroneously and inadvertently been mentioned in paragraph 2 of the status report dated 01.11.2019 which is also so borne out through the copy of the FIR placed on the record.

The respondent no.2 in her deposition on oath has testified to having signed her affidavit in response to the petition as no objection annexed to the petition at points A & B on Ex.CW2/A as well as the settlement which has been arrived at between her and the petitioners at the Delhi Mediation Centre, Rohini District Courts at point A on Ex.CW2/B, which she has stated that she has signed both these documents voluntarily of her own accord without any duress, coercion or pressure from any quarter. She has further testified to the effect that in terms of the said settlement arrived at between her and the petitioners, a total sum of Rs.10,00,000/- had been agreed to be paid to her by the petitioners, out of which a sum of Rs.8,00,000/- has been received by her previously during the course of the divorce proceedings under the Special Marriage Act, 1954 and the balance sum of Rs.2,00,000/- has now been handed over to her by the petitioners today vide a demand draft bearing No.196238 dated 04.01.2020 drawn on the YES Bank in her favour, photocopy of which is on the record as Ex.CW2/C and has further stated that there are now no claims of hers left

against the petitioners. 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 in SMA No.5/2019 under Section 28(2) of the Special Marriage Act, 1954 vide a decree dated 01.06.2019, photocopy of which is on the record as Ex.CW2/D and has further stated that there is no child born of the wedlock between her and the petitioner no.1.

In reply to a specific Court query, the respondent no.2 has submitted that she has done her MBA and that she presently works and has understood the implications of the statement made by her. She has further stated that she does not oppose the prayer made by the petitioners seeking the quashing of the FIR No.38/2017, PS Ashok Vihar registered under Sections 498A/406/34 of the Indian Penal Code, 1860 nor does she want the petitioners to be punished in relation thereto.

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.

In as much as, the FIR has apparently emanated from a matrimonial discord between the parties which has since been resolved by the dissolution of the marriage between the parties, in view of the settlement arrived at between the parties, the statement made by the respondent no.2 and the non-opposition on behalf of the State and as there appears no reason to disbelieve the statement made by the respondent no.2, for maintenance of peace and harmony between the parties, it is considered appropriate 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.38/2017, PS Ashok Vihar registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioners are quashed.

The petition is disposed of.

Copy of the order be given Dasti, as prayed.

ANU MALHOTRA, J

JANUARY 08, 2020
‘neha chopra’

ITEM No.14

CRL.M.C. 3473/2019

ADITYA MAHAJAN AND OTHERS VS. STATE & ANR.

08.01.2020

CW-1 SI Yogesh, PS Ashok Vihar.

ON S.A.

I identify Ms. Poonam Maheshwari as being the power of attorney holder of the petitioner no.1 namely Aditya Mahajan and the petitioner nos. 2 & 3 i.e. the petitioner no.2 Pradeep Mahajan, petitioner no.3 Alka Mahajan present today in Court as being the three accused arrayed in the FIR No.38/2017, PS Ashok Vihar registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and I also identify the respondent no.2 Smt. Megha Purang as being the complainant of the said FIR.

The name of the complainant mentioned as Pallavi in paragraph 2 of the status report dated 01.11.2019 is erroneous and the correct name of the complainant is Smt. Megha Purang as mentioned in the first sentence of the paragraph 2 of the said status report.

ANU MALHOTRA, J.

RO & AC

08.01.2020

ITEM No.14

CRL.M.C. 3473/2019

ADITYA MAHAJAN AND OTHERS VS. STATE & ANR.

08.01.2020

CW-2 Ms. Megha Purang, d/o Sh. Narender Purang, age 32 years, previously r/o F-18, Phase-I, Ashok Vihar and presently residing at A-97, Phase-I, Ashok Vihar, Delhi.

ON S.A.

I have brought my updated Aadhaar Card with my present address, photocopy of the same be placed on the record. My affidavit in response to the petition as no objection annexed to the petition bears my signatures thereon at points A & B on Ex.CW2/A.

A settlement has been arrived at between me and the petitioners at the Delhi Mediation Centre, Rohini District Courts which bears my signatures thereon as visible at point A on Ex.CW2/B, I have signed both these voluntarily of my own accord without any duress, coercion or pressure from any quarter. In terms of the said settlement arrived at between me and the petitioners, a total sum of Rs.10,00,000/- had been agreed to be paid to me by the petitioners, out of which a sum of Rs.8,00,000/- has been received by me previously during the course of the divorce proceedings under the Special Marriage Act, 1954 and a balance sum of Rs.2,00,000/- has now been handed over to me by the petitioners today vide a demand draft bearing No.196238 dated 04.01.2020 drawn on the YES Bank in my favour, photocopy of which is on the record as Ex.CW2/C. There are now no claims of mine left against the petitioners.

The marriage between me and the petitioner no.1 has since been dissolved vide a decree of divorce through mutual consent in SMA

No.5/2019 under Section 28(2) of the Special Marriage Act, 1954 vide a decree dated 01.06.2019, photocopy of which is on the record as Ex.CW2/D. There is no child born of the wedlock between me and the petitioner no.1.

I have done my MBA and I am presently working.

I thus, do not oppose the prayer made by the petitioners seeking the quashing of the FIR No.38/2017, PS Ashok Vihar 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 made my statement after understanding the implications thereof voluntarily of my own accord without any duress, coercion or pressure from any quarter.

ANU MALHOTRA, J.

RO & AC
08.01.2020