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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 3923/2019
SHANKAR SHORYA & ORS. Petitioners
Through: Mr. Dishant Sharma, Adv.

versus

STATE & ANR. Respondents
Through: Mr. Sanjeev Sabharwal, APP for State
with ASI Brijeshwar Dayal, PS CW
Cell Nanak Pura
Mr. Anil Kr. Shrivastava, Adv. for R-
2 with R-2.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **21.01.2020**

The petitioner nos.1 to 5, 7, 8 & 10 to 13 are present. The petitioner nos.6 & 9 are not present with it having been submitted that the petitioner no.6 having given birth to a child is unable to put in appearance with the petitioner no.9 taking care of her.

Vide the present petition, the petitioners seek quashing of the FIR No.159/2013, PS Krishan Nagar 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 FIR in question.

The Investigating Officer of the case has identified the petitioner nos.1 to 5, 7, 8, 10 to 13 present today in Court as being the accused arrayed in the FIR in question and also the petitioner nos.6 & 9 as being the accused arrayed in the FIR in question and has also identified respondent no.2

present in Court today as being the complainant of the said FIR.

The respondent no.2 has produced her original Aadhar Card, copy of which is on the record. The respondent no.2 in her examination on oath by the Court has affirmed having signed her affidavit annexed to the petition Ex.CW2/A and a compromise deed arrived at between her and the petitioner no.1 dated 19.07.2018 Ex.CW2/B voluntarily of her own accord without any duress, coercion or pressure from any quarter.

She has further stated that in terms of the settlement between her and the petitioner no.1, a total sum of Rs.10 lakhs was agreed to be paid to her by the petitioner no.1, of which, a sum of Rs.4 lakhs has already been received by her previously and the balance sum of Rs.6 lakhs has now been handed over to her by the petitioner no.1 vide Manager's Cheques bearing no.049426 dated 20.01.2020 for Rs.1,50,000/- drawn on HDFC Bank, 532354 dated 20.01.2020 for Rs.1,50,000/- drawn on Kotak Mahindra Bank, 176506 dated 17.01.2020 for Rs.1,00,000/- drawn on Bank of Baroda, 735194 dated 17.01.2020 for Rs.2,00,000/- drawn on PNB in her favour, copy of which is on the record as Ex.CW2/D- Ex.CW2/F and that there are now no claims of hers left against the petitioners.

She has further stated that in terms of the settlement between her and the petitioner no.1, 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 dated 05.02.2019 in HMA Petition No.94/2019 vide a decree of the Court of the Judge, Family Courts (East), KKD Courts, copy of which is on the record as Ex.CW2/G and that two children born of the wedlock between her and the petitioner no.1 are with the petitioner no.1

and in terms of the settlement terms, she has visiting rights qua them. She has further stated that in view of the settlement between her and the petitioners, she has no opposition to the prayer made by the petitioners seeking quashing of the FIR No.159/2013, PS Krishan Nagar registered under Sections 498A/406/34 of the Indian Penal Code, 1860 nor does she want the petitioners to be punished in relation thereto. She has further stated that she is a graduate and that she has made her statement after understanding its implications.

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 and the deposition of the respondent no.2.

In view thereof in as much as there appears no reason to disbelieve the statement made by the respondent no.2 as observed hereinabove that she has arrived at a settlement with the petitioners voluntarily 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 the petitioner, 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

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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.159/2013, PS Krishan Nagar 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.

ANU MALHOTRA, J

JANUARY 21, 2020

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IN THE HIGH COURT OF DELHI: NEW DELHI

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CRL.M.C. 3923/2019

SHANKAR SHORYA & ORS. Vs. STATE & ANR

21.01.2020

CW-1 ASI Brijeshwar Dayal, CAW Cell, East Distt.

ON S.A.

I am now posted in CAW Cell, East Distt. and I am in a position to identify the petitioner no.1 Mr. Shankar Shorya, petitioner no.2 Mr. Shyam Lal, petitioner no.3 Mrs. Nathu Devi, petitioner no.4 Mr. Desh Raj, petitioner no.5 Mr. Gautam @ Bitto, petitioner no.7 Mrs. Sangeeta, petitioner no.8 Mrs. Rajni @ Babli, petitioner no.10 Mr. Sudhir @ Dabbu, petitioner no.11 Mr. Manoj, petitioner no.12 Mr. Ajeet Singh and petitioner no.13 Mr. Subhash Chander as being the accused arrayed in the FIR No.159/2013, PS Krishan Nagar registered under Sections 498A/406/34 of the Indian Penal Code, 1860. Apart from them, the other persons arrayed as petitioner no.6 Ms. Sarita @ Neetu & petitioner no.9 Ms. Babita in the petition are also arrayed as accused in the FIR in question. I identify the respondent no.2 Ms. Jyoti as being the complainant of the said FIR.

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IN THE HIGH COURT OF DELHI: NEW DELHI

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21.01.2020

CW-2 Ms. Jyoti, d/o Mr. Nanak Chand, aged 38 years, r/o H.No.666-D/31, Jheel Khurenja, Krishna Nagar, Delhi.

I have brought my original Aadhar Card, copy of which is on the record. My affidavit in response to the petition bears my signatures thereon at points A & B thereon on Ex.CW2/A. A compromise deed has since been arrived at between me and the petitioner no.1 dated 19.07.2018 with my signatures thereon on Ex.CW2/B. I have signed all these documents voluntarily of my own accord without any duress, coercion or pressure from any quarter.

In terms of the settlement between me and the petitioner no.1, a total sum of Rs.10 lakhs was agreed to be paid to me by the petitioner no.1, of which, a sum of Rs.4 lakhs has already been received by me previously and the balance sum of Rs.6 lakhs has now been handed over to me by the petitioner no.1 vide Manager's Cheques bearing no.049426 dated 20.01.2020 for a sum of Rs.1,50,000/- drawn on the HDFC Bank, 532354 dated 20.01.2020 for a sum of Rs.1,50,000 drawn on the Kotak Mahindra Bank, 176506 dated 17.01.2020 for a sum of Rs.1,00,000/- drawn on the Bank of Baroda, 735194 dated 17.01.2020 for a sum of Rs.2,00,000/- drawn on the PNB in my favour, copy of which is on the record as Ex.CW2/D-Ex.CW2/F. There are now no claims of mine left against the petitioners.

In terms of the settlement between me and the petitioner no.1, 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 dated 05.02.2019 in HMA Petition No.94/2019 vide a decree of the Court of the Judge, Family Courts (East), KKD Courts, copy of which is on the record as Ex.CW2/G. Two children born of the wedlock between me and the petitioner no.1 are with the petitioner no.1 and I have visiting rights qua them.

In view of the settlement between me and the petitioners, I have no opposition to the prayer made by the petitioners seeking quashing of the FIR No.159/2013, PS Krishan Nagar 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.

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

RO & AC
21.01.2020

ANU MALHOTRA, J