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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 4476/2019
AKHILESH & ORS. Petitioners
Through: Mr. Manish Dixit, Adv. with
petitioners.

versus

STATE & ANR. Respondents
Through: Mr. Sanjeev Sabharwal, APP for State
with SI Sandeep Kumar, PS Alipur.
Mr. Yatender Khatri & Yogesh
Tiwari, Advs.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **09.01.2020**

Vide the present petition, the petitioners seek quashing of the FIR No.270/2015, PS Alipur 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 vide a compromise deed 01.08.2019 and no useful purpose would be served by the continuation of the proceedings in relation to the FIR in question.

In as much as the terms of the settlement dated 01.08.2019 vide clause 4 thereof, which reads to the effect:

“4. That the parties to the petitioners have sorted out their claims, disputes and differences as per the mutual settlement out of court before the family member whereby it has been agreed that the petitioner no.1 will pay to the petitioner No.2 total sum of Rs.1,50,000/- (One Lakh fifty thousand Rupees Only) towards the

full and final settlement qua this marriage against all past present and future maintenance claim permanent alimony for herself as well as her minor child once for all, to the petitioner no.2.”

whereby the settlement terms was to the effect that a total sum of Rs.1,50,000/- was agreed to be paid by the petitioner no.1 to the respondent no.2 towards all her claims past present and future as well as permanent alimony for herself and for her minor child once for all to the petitioner no.2. In as much as the same not being in consonance with the law, in terms of the verdict of the Hon’ble Supreme Court in dated 22.4.2019 in **Ganesh V. Sudhir Kumar Shrivastava & Ors.**; Civil Appeal Nos. 4031-4032/2019 arising out of SLP(C) Nos. 32868-32869/2018 observing therein to the effect that it was not open to the mother to give up the claims in relation to the minor child. As a consequence thereof, a fresh memorandum of understanding between the parties dated 09.09.2019 was submitted whereby the terms thereof qua clause 4 were thus incorporated to the effect

“4. That the parties to the petitioners have sorted out their claims, disputes and differences as per the mutual settlement out of court before the family member whereby it has been agreed that the petitioner no.1 will pay to the petitioner No.2 total sum of Rs.1.50,000/- (One Lakh fifty thousand Rupees Only) towards the full and final settlement qua this marriage against all past present and future maintenance claim permanent alimony for herself.”

The petitioner no.1 was also examined as PW2 on 30.10.2019 wherein he stated categorically that in terms of the fresh settlement dated 09.09.2019 executed between him and the respondent no.2, no claims of maintenance of

the minor child Varsha born of the wedlock between him and the respondent no.2 had been settled and that the settlement terms were only in relation to the payment of maintenance or alimony that had been paid by the petitioner no.1 qua the respondent no.2 only.

The Investigating Officer of the case was also examined on 30.10.2019 and has identified the petitioners as being the accused arrayed in the FIR in question and has also identified respondent no.2 as being the complainant of the said FIR.

The respondent no.2 has produced her original proof of identity, copy of which is on the record as Ex.CW3/C. The respondent no.2 in her examination on oath by the Court has affirmed having signed her affidavit annexed to the petition Ex.CW3/A and the compromise deed 01.08.2019 Ex.CW3/B voluntarily of her own accord without any duress, coercion or pressure from any quarter.

She has stated that in terms of the settlement arrived at between her and the petitioners, a total sum of Rs.1,50,000/- was agreed to be paid to her by the petitioner, of which, a sum of Rs.1 lakh has already been received by her previously and the balance sum of Rs.50,000/- has now been handed over to her by the petitioner no.1 vide a demand draft bearing No.187670 dated 16.10.2019 drawn on the PNB in her favour and that there are no claims of hers left against the petitioners now. In as much as the said demand draft during the course of proceedings dated 30.10.2019 had been taken on record in view of the statement that had been made by the respondent no.2 at that time that the marriage between her and the petitioner no.1 had not been dissolved, the proceedings dated 30.10.2019 indicate that

there is a typographical error mentioning the demand draft for a sum of Rs.50,000/- bearing no.157670 dated 16.10.2019, which ought to be read as 187670 dated 16.10.2019 for a sum of Rs.50,000/- drawn on the PNB and the proceedings dated 30.10.2019 are thus rectified to that effect in terms of Section 362 of the Cr.PC, 1973.

In view of the statement that had been made by the respondent no.2 in reply to specific Court queries that the marriage between her and the petitioner no.1 had not been dissolved and as placed on record was only a copy of the decree dated 30.08.2019 in HMA No.1431/2019 of the Court of the Principal Judge, Family Court, District North, Rohini Courts which was not in the form of a certified copy, the records of the HMA No.1431/2019 have thus been requisitioned from the Court of the Principal Judge, Family Court, District North, Rohini Courts and it is borne out from the same, that the marriage between her and the petitioner no.1 has since been dissolved vide a decree of divorce through mutual consent vide a decree dated 30.08.2019 in HMA Petition No.1431/2019 of the Court of the Principal Judge, Family Court, District North, Rohini Courts, copy of which is thus now on the record as Annexure D exhibited as Ex.CW3/D. The respondent no.2 has further stated that she has understood that the marriage between her and the petitioner no.1 has since been dissolved vide a decree of divorce through mutual consent.

She has further stated that she has studied upto standard 8th and that in view of the settlement arrived at between her and the petitioners, she does not oppose the prayer made by the petitioners seeking the quashing of the FIR No.270/2015, PS Alipur registered under Sections 498A/406/34 of the

IPC 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 petitioner seeking the quashing of the FIR in question in view of the settlement arrived at between the parties.

There appears no reason to disbelieve the statement made by the respondent no.2 that she has arrived at a settlement with the petitioner no.1 voluntarily, there being no impediment now in view of consequent settlement dated 09.09.2019 between the parties on the record Ex.CW3/E with its rectified terms, 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 no. 1 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.270/2015, PS Alipur 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 09, 2020

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IN THE HIGH COURT OF DELHI: NEW DELHI

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CRL.M.C. 4476/2019

AKHILESH & ORS. Vs. STATE & ANR.

09.01.2020

CW-3 Ms. Reena, d/o Mr. Abhilash, aged 31 years, r/o A-141, Transit Camps, Tikri Khurd, Narela, Delhi.

I have brought my original Aadhaar Card, photocopy of which is on the record as Ex.CW3/C. My affidavit annexed to the petition bears my signatures thereon at points A & B thereon on Ex.CW3/A. The compromise deed 01.08.2019 between me and the petitioners bears my signatures thereon on each page thereof as also visible at Point A on Ex.CW3/B. The fresh compromise deed dated 09.09.2019 between me and the petitioners bears my signatures thereon on each page thereof as also visible at Point A on Ex.CW3/E. 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 arrived at between me and the petitioners, a total sum of Rs.1,50,000/- was agreed to be paid to me by the petitioner, of which, a sum of Rs.1 lakh has already been received by me previously and the balance sum of Rs.50,000/- has now been handed over to me by the petitioner no.1 vide a demand draft bearing No.187670 dated 16.10.2019 drawn on the PNB in my favour. There are no claims of mine left against the petitioners now.

The marriage between me and the petitioner no.1 has since been dissolved vide a decree of divorce through mutual consent vide a decree dated 30.08.2019 in HMA Petition No.1431/2019 of the Court of the Principal Judge, Family Court, District North, Rohini Courts, copy of which

is on the record as Ex.CW3/D.

On the last date of hearing i.e. 30.10.2019, when I submitted that the divorce had not taken place between me and the petitioner no.1, I have not understood the same and I am now aware of the fact that the marriage between me and the petitioner no.1 has since been dissolved vide a decree of divorce through mutual consent vide a decree dated 30.08.2019 in HMA Petition No.1431/2019 of the Court of the Principal Judge, Family Court, District North, Rohini Courts.

I have studied upto standard 8th.

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.270/2015, PS Alipur registered under Sections 498A/406/34 of the IPC nor do I want the petitioners to be punished in relation thereto.

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

RO & AC
09.01.2020

ANU MALHOTRA, J