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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 4536/2019 & CRL.M.A. 35475/2019
MUNESH GUPTA & ORS Petitioners
Through: Mr. Jatin Rajput, Adv.

versus

STATE, NCT OF DELH & ANR Respondents
Through: Mr. Ashok Kr. Garg, APP for State
with SI Rahul Mohan, PS Mandawli
Fazalpur.
Counsel for R-2.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **02.03.2020**

Vide the present petition, the petitioners seek quashing of the FIR No.718/2014, PS Mandawli Fazalpur 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 petitioners present today in Court 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 proof of identity, copy of which is on the record as Ex.CW2/A. The respondent no.2 in her examination on oath by the Court has affirmed having signed her affidavit

Ex.CW2/E and the settlement arrived at between the petitioner and the respondent no.2 at the Delhi Mediation Centre, KKD Courts Ex.CW2/C voluntarily of her own accord without any duress, coercion or pressure from any quarter.

The respondent no.2 has further stated that the marriage between her and the petitioner no.1 has since been dissolved vide a decree of divorce dated 25.04.2019 under Section 13B (2) of the HMA in HMA Petition No.258/2019 of the Court of the learned Judge, Family Court, East District, KKD Courts, New Delhi, copy of which is on the record as Ex.CW2/C and that she has since re-married.

She has further stated that in terms of the settlement arrived at between her and the petitioner no.1, a total sum of Rs.3,50,000/- has been agreed to be paid to her by the petitioner no.1, of which, a sum of Rs.2,50,000/- has already been received by her previously and the balance sum of Rs.1 lakh has now been handed over to her by the petitioner no.1 vide a demand draft bearing no.025854 dated 02.01.2020 in her favour drawn on the Punjab National Bank, the copy of the same is on the record as Ex.CW2/D and that there are no claims of hers left against the petitioners now and she undertakes that in terms of the settlement arrived at between her and the petitioner no.1, as per clause 6 of the said agreement, which reads to the effect:

“6. It is agreed between the parties that husband shall pay the balance amount of Rs.1,00,000/-(Rupees One Lakh only) to the complainant/ wife in the form of FDR in the name of son Naman Gupta, before the Hon’ble High Court of Delhi at the time of quashing of FIR No.718/14 PS Mandawali, under Section 498A/406/34 IPC. In the said FDR the complainant/mother shall

be the nominee and the FDR shall be for a period till Naman Gupta attains the age of majority. The husband/respondents shall move to Hon'ble High Court of Delhi within a month from the date of obtaining the decree of divorce for getting the aforesaid FIR quashed. The complainant shall cooperate with the respondents in quashing proceedings by making appropriate statement”,

she undertakes that the said amount of Rs.1 lakh would be deposited in the form of an FDR in the name of Naman Gupta, minor son born of the wedlock between her and the petitioner no.1 for a period till he attains majority.

She has further stated that in view of the settlement arrived at between her and the petitioners, she does not oppose their prayer for quashing of the FIR No.718/2014, PS Mandawli Fazalpur 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 further states that she has studied upto standard 7th and that she has made her statement voluntarily after understanding the implications thereof.

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 except to the extent of submitting that rights of the minor child born of the wedlock between the petitioner no.1 and the respondent no.2 be protected.

In as much as there appears no reason to disbelieve the statement made by the respondent no.2 that she has arrived at a settlement with the petitioner voluntarily, with the FIR in question having 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, 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.718/2014, PS Mandawli Fazalpur registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioners are quashed.

The respondent no.2 shall however within a period of two weeks place on record the FDR in the name of the minor child Naman Gupta for a sum of Rs.1 lakh, which is to be so deposited for the period till he attains majority.

Furthermore, in view of clause 2 of the settlement agreement, which reads to the effect:

“2. It is agreed between the parties that husband shall pay Rs.3,50,000/-(Rupees Three Lakh Fifty Thousand only) to wife towards full and final settlement of all her claims including stridhan, permanent alimony & maintenance (present, past and future) etc for herself as well as for the son.”

it is made expressly clear that the said settlement agreement Ex.CW2/D between the petitioners and the respondent no.2 shall in no manner amount to any embargo on the minor child Naman Gupta seeking his claims against the petitioners qua maintenance or otherwise in accordance with law as laid down by the Hon’ble Supreme Court in Civil Appeal 4031-4032/2019 arising out of SLP (C) Nos.32868-32869/2018 titled as ***Ganesh Vs. Sudhirkumar Shrivastava & Ors.*** vide the verdict dated 22.04.2019 as adhered to by this Court in ***Rakesh Jain & Ors. vs. State & Anr.*** in CRL.M.C. 2935/2019 dated 06.09.2019.

The petition is disposed of.

ANU MALHOTRA, J

MARCH 02, 2020

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IN THE HIGH COURT OF DELHI: NEW DELHI

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CRL.M.C. 4536/2019

MUNESH GUPTA & ORS Vs. STATE, NCT OF DELH & ANR

02.03.2020

CW-1 SI Rahul Mohan, PS Mandawli Fazalpur.

ON S.A.

I identify the petitioner no.1 Mr. Munesh Gupta, petitioner no.2 Mr. Subhash Chand, petitioner no.3 Mrs. Sushma Devi, petitioner no.4 Mr. Arvind Kumar Gupta, petitioner no.5 Mrs. Neelam Gupta, petitioner no.6 Mr. Rajender Prasad Gupta and petitioner no.7 Rakshpal Gupta as being the accused arrayed in the FIR No.718/2014, PS Mandawli Fazalpur registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and has also identified the respondent no.2 Ms. Shalini Gupta as being the complainant of the said FIR.

RO & AC
02.03.2020

ANU MALHOTRA, J

IN THE HIGH COURT OF DELHI: NEW DELHI

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CRL.M.C. 4536/2019

MUNESH GUPTA & ORS Vs. STATE, NCT OF DELH & ANR

02.03.2020

CW-2 Ms. Shalini Gupta, d/o Mr. Satish Kumar Gupta, aged 26 years, r/o H.No.348/1, Asharam Gali, Gali No.4, Subedar Chowk, Mandawli Fazalpur, Delhi.

I have brought my original Aadhar Card, copy of which is on the record as Ex.CW2/A. My affidavit in support of the averments made in the petition bears my signatures thereon at points A & B thereon on Ex.CW2/E. The settlement dated 29.08.2018 arrived at between me and the petitioner no.1 bears my signatures as visible at point A 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.

The marriage between me and the petitioner no.1 has since been dissolved vide a decree of divorce dated 25.04.2019 under Section 13B (2) of the HMA in HMA Petition No.258/2019 of the Court of the learned Judge, Family Court, East District, KKD Courts, New Delhi, copy of which is on the record as Ex.CW2/C. I have since re-married.

In terms of the settlement arrived at between me and the petitioner no.1, a total sum of Rs.3,50,000/- has been agreed to be paid to me by the petitioner no.1, of which, a sum of Rs.2,50,000/- has already been received by me previously and the balance sum of Rs.1 lakh has now been handed over to me by the petitioner no.1 vide a demand draft bearing no.025854 dated 02.01.2020 in my favour drawn on the Punjab National Bank, the copy of the same is on the record as Ex.CW2/D. There are no claims of mine left

against the petitioners now. I undertake that this amount would be deposited in the form of an FDR in the name of Naman Gupta, minor son born of the wedlock between me and the petitioner no.1 for a period till he attains majority.

In view of the settlement arrived at between me and the petitioners, I do not oppose their prayer for quashing of the FIR No.718/2014, PS Mandawli Fazalpur 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 studied upto standard 7th.

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
02.03.2020

ANU MALHOTRA, J