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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 6167/2019 and Crl.M.A. No. 41664/2019

NEERAJ CHADHA & ANR Petitioners
Through: Mr.Anil Kumar Batra, Advocate

versus

STATE & ANR Respondents
Through: Mr. Sanjeev Sabharwal, APP for State
With SI Sikander Gautam, PS Sarita
Vihar.
Respondent No.2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **04.03.2020**

Petitioner No.1 is present. Petitioner No.2 is stated to be 79 years of age and is unable to put in appearance.

The Investigating Officer of the case is present and has identified the petitioner No.1 Neeraj Chadha as being one of the accused arrayed in FIR No.505/2005 PS Sarita Vihar, registered under Sections 498A/406 of the Indian Penal Code, 1860 and has also identified the respondent No.2 present in the Court today as being the complainant of the said FIR.

The respondent No.2 is present in person and states that she does not oppose the prayer made on behalf of the petitioners seeking exemption of presence of the petitioner No.2 for the day. The respondent No.2 has produced her original proof of identity and is also identified by the learned counsel for the petitioner.

Vide the present petition, the petitioner seeks quashing of the

FIR No.505/2005 PS Sarita Vihar, registered under Sections 498A/406 of the Indian Penal Code, 1860 submitting to the effect 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 under Section 13-B(2) of the Hindu Marriage Act, 1955 dated 26.8.2019 in HMA No. 648/19 of the Court of the Principal Judge, Family Courts (South East), Saket Courts and the certified copy of the decree is EX.CW-2/C and that the disputes between the petitioner No.1 and the respondents No.2 stand settled in terms of the proceedings dated 13.3.2019 in MAT APP(FC) No.121/2017 and 137/2017 as stipulated therein to the effect that the Gift Deed, along with other title documents of the flat bearing No. Flat No. 67S, Sector-7, Jasola Vihar, New Delhi-110025, in the name of Pooja Chadha and Navika Chhauda, the daughter born of the wedlock between the petitioner No.1 and the respondent No.2, was to be delivered to the respondent No.2 Pooja Chadha simultaneously with the quashing of the FIR and the proceedings arising therefrom and that the petitioner will not have any right to raise any objection to the release of the title Gift Deed and other documents relating to the Flat No. 67S, Sector-7, Jasola Vihar, New Delhi-110025, to Ms.Pooja Chadha.

At this stage, in view of the proceedings dated 19.2.2019 in the MAT.APP (FC) 121/2017 and 137/2017, vide order dated 3.12.2019, the records of the Gift Deed and other documents lying in the sealed cover as ordered vide order dated 19.2.2019 were put up by the Registry which have since been opened and the accompanying

documents as detailed in proceedings date 19.2.2019 Annexure P-4 have been put up. The photocopies thereof are directed to be retained on record before they are handed over to the respondent No.2 in terms of the proceedings dated 19.2.2019 in the MAT.APP (FC) No. 121/2017 and 137/2017.

The respondent No.2 has further stated to the effect that in terms of the said order dated 19.2.2019 all disputes between her and the petitioners stand settled and that there no claims of her left against the petitioners and that she does not oppose the prayer made by the petitioners seeking quashing of the FIR No. 505/2005, PS Sarita Vihar, registered under Sections 498A/406 of the Indian Penal Code, 1860 nor does she want the petitioners to be punished in relation thereto. She affirms the factum of dissolution of marriage vide a decree of the divorce through mutual consent under Section 13-B(2) of the Hindu Marriage Act, 1955 dated 26.8.2019 in HMA No. 648/19 of the Court of the Principal Judge, Family Courts (South East), Saket Courts and the certified copy of the decree is EX.CW-2/C. She has further testified to the effect that the she has sworn in her affidavit EX.CW-2/B voluntarily of her own accord without any duress, pressure or coercion from any quarter during the course of the present proceedings in support of the averments made in the petition. She has further stated in reply to a specific Court query that she has made her statement voluntarily of her own accord without any duress, pressure or coercion from any quarter and she has understood the implications of the statement made by her.

The respondent No.2 is apparently well educated having done

her B. Com(Hons.) and the course of accountancy and also pursuing LL.B., there appears no reason to disbelieve that she has made her statement voluntarily of her own accord without any duress, pressure or coercion from any quarter as also borne out through the proceedings dated 19.2.2019 in the MAT.APP (FC) Nos. 121/2017 and 137/2017.

On behalf of the State there is no opposition to the prayer made by the petitioners in view of the statement made by the respondent No.2.

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 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.505/2005 PS Sarita Vihar, registered under Sections 498A/406 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

MARCH 04, 2020/SV

Item No. 27

CRL.M.C. 6167/2019

NEERAJ CHADHA & ANR. V. STATE & ANR.

**CW-1 SI SIKANDER GAUTAM PS SARITA VIHAR.
ON S.A.**

I identify the petitioners No.1, namely, Neeraj Chadha as being one of the accused arrayed in FIR No.505/2005 PS Sarita Vihar, registered under Sections 498A/406 of the Indian Penal Code, 1860. 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
04.03.2020**

Item No. 27

CRL.M.C. 6167/2019

NEERAJ CHADHA & ANR. V. STATE & ANR.

CW-2 MS.POOJA CHHADHA D/O MRS. SAVITA MONGA R/O FLAT NO. 67, SECOND FLOOR DDA FLATS, SECTOR-7, JASOLA VIHAR. ON S.A.

I have brought my original proof of identity i.e. Aadhar Card. The photocopy of the same is EX.CW-2/A.

My affidavit which I have now submitted in support of the petition bears my signatures at points A & B on Ex.CW-2/B. In terms of the settlement as mentioned in my affidavit which orders are in MAT APP (FC) No. 121/2017 and 137/2017, I state that I do not oppose the prayer made by the petitioners No.1 and 2 seeking quashing of the FIR No.505/2005 PS Sarita Vihar, registered under Sections 498A/406 of the Indian Penal Code, 1860. In terms of the order dated 19.2.2019 of the Hon'ble Division Bench in MAT APPL.FC No. 121/17 and 137/2017 placed on record as Annexure P-4 to the present petition, I have since been handed over a gift deed in my favour and that of Navika Chhauda, i.e., the daughter born of the wedlock between me and the petitioner No.1, in relation to Flat No. 67S, Sector-7, Jasola Vihar, New Delhi-110025 with the accompanying documents and in as much as the amount to be paid to Ms. Navika Chhauda in terms of the order dated 19.2.2019 in MAT APP. FC No. 121/17 and 137/17 has since been paid and all claims of mine stand settled. Thus I do not oppose to the prayer made by the petitioners No.1 and 2 seeking quashing of the FIR No.505/2005 PS Sarita Vihar, registered under Sections 498A/406 of the Indian Penal Code, 1860 nor do I want them to be punished in relation thereto.

The marriage between me and the petitioner No.1 has since been dissolved vide a decree of divorce through mutual consent under Section 13-B(2) of the Hindu Marriage Act, 1955 dated 26.8.2019 in HMA No. 648/19 of the Court of the Principal Judge, Family Courts (South East), Saket Courts. The certified copy of the decree of divorce is EX.CW-2/C.

I have done my B.Com(Hons), and accountancy and also pursuing LL.B and I have understood the implications of the statement made by me. I have made my statement voluntarily of my own accord without any duress, pressure or coercion from any quarter.

ANU MALHOTRA, J.

RO & AC
4.3.2020