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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 6494/2019 & CRL.M.A. 42824/2019**
SAGAR SEHGAL & ORS Petitioners
Through: Mr. Kartik Khanna, Adv.

versus

STATE & ANR Respondents
Through: Ms. Aashaa Tiwari, APP for State
with SI Lovely Shokeen, PS Jyoti
Nagar.
R-2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **02.03.2020**
CRL.M.A. 42824/2019 (Exemption)

Exemption allowed, subject to just exceptions.

CRL.M.C. 6494/2019

Vide the present petition, the petitioners seek quashing of the FIR No.361/2014, PS Jyoti Nagar registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act, 1961 submitting to the effect that a settlement has been arrived at between the parties and that the marriage between the petitioner no.1 and the respondent no.2 has been dissolved vide a decree of divorce through mutual consent 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 affirmed the factum of demise of co-accused Ms. Kavita Sehgal with the death certificate in relation thereto being placed on record. The Investigating Officer 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/B and affirms the factum of the settlement having been arrived at between the petitioner no.1 and herself vide a settlement deed dated 09.08.2018 Ex.CW2/C as well as the custody agreement dated 09.08.2018 between her and the petitioner no.1 Ex.CW2/F for the minor child Navya born of the wedlock between her and the petitioner no.1.

The respondent no.2 has further stated that in terms of the settlement arrived at between her and the petitioner no.1, a total sum of Rs.20 lakhs has been agreed to be paid to her by the petitioner no.1, of which, a sum of Rs.10 lakhs has already been received by her previously and the balance sum of Rs.10 lakhs has now been handed over to her by the petitioner no.1 vide a Banker's Cheque bearing no.034456 dated 13.12.2019 in her favour drawn on the Standard Chartered Bank and the copy of the same is on the record as Ex.CW2/E and that there are no claims of hers left against the petitioners now.

She has further stated that the marriage between her and the petitioner no.1 has since been dissolved vide a decree of divorce dated 05.10.2013 in OP No.812/2012 of the Court of the Judge, Family Court, Ranga Reddy District, L.B. Nagar, Hyderabad, copy of which is on the record as

Ex.CW2/D and further stated that she has not challenged the said decree nor does she intend to assail the same. She has further stated that the child Navya aged 9 years born of the wedlock between her and the petitioner no.1 is in her custody in terms of the settlement deed as well as the custody agreement dated 09.08.2018 Ex.CW2/F and in terms thereof, the child is to remain in her custody.

She has further stated 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.361/2014, PS Jyoti Nagar registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act, 1961 nor does she want the petitioners to be punished in relation thereto. She has further stated that she has done B.Sc. MLT and she worked as a Lab Technician previously 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.

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 and taking into account the factum that she is well educated having done her Bachelors and that she has understood the implications of her statement, 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, 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.361/2014, PS Jyoti Nagar registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act, 1961 and all consequential proceedings emanating therefrom against the petitioners are quashed.

However, it is made expressly clear that though vide the settlement deed dated 09.08.2018 vide clause 1, it has been stated to the effect:

“1. That the First Party will pay a sum of Rs. 20,00,000/- to the Second Party towards full and final settlement towards dowry, present past and future maintenance and permanent alimony and expenses of child and subsequent to the payment of the same, nothing shall remain due in the following manner:

a) Rs. 5,00,000/- by DD No. 678562 drawn on Standard Chartered Bank dated 09.08.2018 be paid at the time of

withdrawn the case U/s 125 Cr. P.C. and PWDV Act, 2005 recording of statement of the First party before concern court.

b) Rs. 5,00,000/- by DD/ Cash be paid after one month of recording of statement and withdrawn the above said cases.

c) Balance of Rs. 10,00,000/- be paid at the time of quashing of FIR bearing no.3/2014 registered under Section 498A, 406, 34 IPC registered at P.S. Jyoti Nagar within next two months.”

indicating thereby that the rights of the minor child for maintenance of otherwise stand settled by the settlement between the petitioner no.1 and the respondent no.2, the said settlement term is not in consonance 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.

It is made expressly clear that the said settlement term clause 1 (a), (b), (c) as per the settlement deed dated 09.08.2018 shall not amount to any embargo on the minor child Navya born of the wedlock between the petitioner no.1 and the respondent no.2 seeking her rights qua maintenance or otherwise against the petitioners in accordance with law.

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. 6494/2019

SAGAR SEHGAL & ORS Vs. STATE & ANR

02.03.2020

CW-1 SI Lovely Shokeen, PS Jyoti Nagar.

ON S.A.

I identify the petitioner no.1 Mr. Sagar Sehgal, petitioner no.2 Mr. Mohinder Sehgal, petitioner no.3 Mr. Ravi Grover and petitioner no.4 Mrs. Seema Grover as being the accused arrayed in the FIR No.361/2014, PS Jyoti Nagar registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act, 1961. The other accused named Ms. Kavita Sehgal, mother-in-law of the respondent no.2 has since expired. I identify the respondent no.2 Ms. Ruchi 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. 6494/2019

SAGAR SEHGAL & ORS Vs. STATE & ANR

02.03.2020

CW-2 Ms. Ruchi @ Ruchi Suri, d/o Mr. Ashok Suri, aged 30 years, r/o H.No.276, Gali No.2, Durgapuri Extension, Shahdara, Delhi.

I have brought my original proof of identity, 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/B. The settlement deed dated 09.08.2018 arrived at between me and the petitioner no.1 bears my signatures as visible at point A thereon on Ex.CW2/C. 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 05.10.2013 in OP No.812/2012 of the Court of the Judge, Family Court, Ranga Reddy District, L.B. Nagar, Hyderabad, copy of which is on the record as Ex.CW2/D. I have not challenged the said decree nor do I intend to assail the same.

In terms of the settlement arrived at between me and the petitioner no.1, a total sum of Rs.20 lakhs has been agreed to be paid to me by the petitioner no.1, of which, a sum of Rs.10 lakhs has already been received by me previously and the balance sum of Rs.10 lakhs has now been handed

over to me by the petitioner no.1 vide Banker's Cheque bearing no.034456 dated 13.12.2019 in my favour drawn on the Standard Chartered Bank. The copy of the same is on the record as Ex.CW2/E. There are no claims of mine left against the petitioners now.

The child Navya aged 9 years born of the wedlock between me and the petitioner no.1 is in my custody in terms of the settlement deed as well as the custody agreement dated 09.08.2018 which bears my signature at point A thereon on Ex.CW2/F and in terms thereof, the child is to remain in my custody.

In view of the settlement arrived at between me and the petitioners, I do not oppose their prayer seeking quashing of the FIR No.361/2014, PS Jyoti Nagar registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act, 1961 nor do I want the petitioners to be punished in relation thereto.

I have done B.Sc. MLT and I worked as a Lab Technician previously.

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