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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 6587/2019 and Crl.M.A. No. 2564/2020

AMIT NATH SAINI & ORS

.... Petitioners

Through: Mr.Deepak Singh Thakur, Advocate.
With petitioners in person.

versus

STATE (GOV. OF NCT OF DELHI) & ANR Respondents

Through: Mr.Kamal Kumar Ghei, APP for State
with SI Pushpender Saroha, PS Sarai
Rohilla
R-2 in person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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16.09.2020

Pursuant to the proceedings dated 15.9.2020, it is submitted by the respondent No.2 in reply to specific Court queries that the balance sum of Rs.10,00,000/- in terms of the settlement agreement dated 1.10.2019 has since been received by her and thus she has received the entire sum of Rs. 35,00,000/- from the petitioners and there are now no claims of hers left against the petitioners No.1 to 5 i.e. Amit Nath Saini, Maheshwari Nath Saini, Smt. Kamlesh, Smt. Himani Nath Saini and Sunil Kumar Soni in relation to the FIR No.193/2012 PS Sarai Rohilla registered under Sections 498A/406/506/34 of the Indian Penal Code, 1860 as well as other consequential proceedings nor qua the proceedings under Section 174/174A of the Indian Penal

Code, 1860.

The proceedings dated 15.9.2020 and the testimony dated 15.9.2020 of the respondent No.2 who was identified by the Investigating Officer SI Pushpender Saroha examined as CW-1 on 15.9.2020 indicate to the effect that the marriage between the petitioner No.1 and the respondent no.2 has been dissolved vide a decree of divorce through mutual consent under Section 13 B (2) of the Hindu Marriage Act, 1955 dated 25.11.2019 in HMA No. 1787/2019 of the Court of the Judge, Family Court, Central District, Tis Hazari Courts.

The testimony of the respondent No.2 indicates that there is no child born of the wedlock between her and the petitioner no.1 and that she has done B.Ed. and has made her statement after understanding its implications voluntarily of her own accord without any duress, pressure, or coercion from any quarter.

In the circumstances, the learned APP for the State submits that there is no opposition to the prayer made by the petitioners seeking quashing of the FIR 193/2012 PS Sarai Rohilla registered under Sections 498A/406/506/34 of the Indian Penal Code, 1860 as well as any consequential proceedings under Section 174/174A of the Indian Penal Code, 1860 in relation thereto.

In view of the statement made by the respondent No.2 duly identified by the Investigating Officer there appears no reason to disbelieve the statement of the respondent no.2 that she has arrived at a settlement with the petitioners voluntarily of her own accord without any duress or pressure from any quarter, coupled with the

factum she has done B.Ed. and has stated that she understands the implications of her statement with their being no opposition on behalf of the State to the prayer made by the petitioners seeking quashing of the FIR in question as well as the proceedings under Section 174/174A of the Indian Penal Code, 1860, and that the FIR emanates from a matrimonial discord which has since been resolved vide dissolution of the marriage between petitioner no.1 and respondent no. 2 vide a decree of divorce through mutual consent under Section 13 B (2) of the Hindu Marriage Act, 1955 dated 25.11.2019 in HMA No. 1787/2019 of the Court of the Judge, Family Court, Central District, Tis Hazari Courts, 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),

in these circumstances for maintenance of peace and harmony between the parties, thus the FIR No.193/2012 PS Sarai Rohilla registered under Sections 498A/406/506/34 of the Indian Penal Code, 1860, and in relation to any other consequential proceedings under Section 174/174A of the Indian Penal Code, 1860 all consequential proceedings emanating therefrom are thus quashed.

The petition is disposed of.

ANU MALHOTRA, J

SEPTEMBER 16, 2020

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IN THE HIGH COURT OF DELHI: NEW DELHI

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CRL.M.C. 6587/2019

AMIT NATH SAINI & ORS. VS. STATE (GOV. OF NCT OF DELHI) & ANR

16.09.2020

**CW-2 MS SHWETA SAINI D/O SH. RAVI PRAKASH SAINI, R/O 315A, OLD ROHTAK ROAD, SHAHZADA BAGH, DELHI. AGED 37 YEARS
ON S.A.**

In continuation to my statement dated 15.9.2020 I have received the balance sum of Rs.10,00,000/- in terms of the settlement arrived at between me and the petitioner No.1 on 1.10.2019 and now there are now no claims of mine left against the petitioners No.1 to 5 in relation to FIR No.193/2012 PS Sarai Rohilla registered under Sections 498A/406/506/34 of the Indian Penal Code, 1860, nor in relation to any other consequential proceedings under Section 174/174A of the Indian Penal Code, 1860. I have so stated voluntarily of my own accord without any duress, coercion or pressure from any quarter nor do I want the continuation of the said FIR No.193/2012 PS Sarai Rohilla registered under Sections 498A/406/506/34 of the Indian Penal Code, 1860, nor in relation to any other consequential proceedings under Section 174/174A of the Indian Penal Code, 1860 nor do I want the petitioners to be punished in relation thereto.

**RO & AC
16.09.2020**

ANU MALHOTRA, J