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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 190/2019**

RAJESH KUMAR & ORS. Petitioners
Through: Ms.Neeru Garg, Advocate

versus

STATE & ANR. Respondent
Through: Mr.Kamal Kumar Ghai, APP for State
with SIAjay Kumar, PS Rajouri
Garden
Respondent No.2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **04.02.2020**

The petitioners vide the present petition seek quashing of FIR No.65/2016 PS Rajouri Garden registered under Sections 498-A/406/34 of the Indian Penal Code, 1860 submitting to the effect that a settlement has been arrived at between the parties as averred in the petition. The settlement was arrived at between the parties at the Delhi Mediation Centre on 26.5.2018.

The Investigating Officer of the case is present and has identified the petitioners No. 1 to 9 and 11 and 12 and the proof of identity of the petitioner No.10 placed on record at page 49 as being the accused arrayed in FIR No.65/2016 PS Rajouri Garden registered under Sections 498-A/406/34 of the Indian Penal Code, 1860 and has identified the respondent No.2 as being the complainant of the said

FIR. The Investigating Officer has also deposed to the effect that the petitioner No.1 and the respondent No.2 are living together.

The respondent No.2 in her testimony on oath has produced her proof of identity, copy of which is EX.CW-2/A and has affirmed having signed her affidavit EX.CW-2/B whilst she states that she cannot understand the contents thereof with it being in English and can only read Hindi. In reply to a specific Court query, she does not refute the contentions that since 2018 she has been residing with the petitioners with the FIR having been registered in the year 2016 and also a settlement was arrived at between the petitioner No.1 and the respondent No.2 at the Delhi mediation Centre, Tis Hazari Courts, Delhi. The respondent No.2 further stated that there are now no problems with the petitioners except some intermittent problems which keep getting resolved. The respondent No.2 further testified to the effect that she has two children born of the wedlock between the petitioner No.1 and the respondent No.2 one aged 4 years and the other aged 5 months respectively, and that she has studied till Standard VIII and she has understood the implications of the statement made by her and that she has so stated voluntarily of her own accord without any duress, pressure or coercion from any quarter.

On behalf of the State there is no opposition to the prayer made by the petitioners seeking quashing of the FIR in view of the reconciliation between the petitioner No.1 and the respondent No.2.

There is no reason to disbelieve the statement of the respondent No.2 that she has reconciled her differences with the petitioner No.1

and is living with the petitioner No.1 at her matrimonial home with her two children, in as much as the FIR has emanated from a matrimonial discord which has since been resolved as stated by the respondent No.2 in her examination on oath by the Court, 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 and her children, 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.65/2016 PS Rajouri Garden registered under Sections 498-A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioners are thus quashed.

The petition is disposed of.

ANU MALHOTRA, J

FEBRUARY 04, 2020/SV

Item No. 16

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RAJESH KUMAR & ORS. V. STATE & ANR.

**CW-1 SI AJAY KUMAR PS RAJOURI GARDEN
ON S.A.**

I identify the petitioners No. 1 to 9 and 11 to 12, namely, Rajesh Kumar, Kitabo, Ramesh Chandra, Santosh, Sube @ Gogal, Vidya, Anuj, Jyoti and Preeti and Jaswant and Sheela Devi and the identity proof of the petitioner No.10, namely, Suresh as being the accused arrayed in FIR No.65/2016 PS Rajouri Garden registered under Sections 498-A/406/34 of the Indian Penal Code, 1860 present in the Court today. I also identify the respondent No.2 present in the Court today as being the complainant of the said FIR. The petitioner No.1 and the respondent No.2 are living together.

ANU MALHOTRA, J.

**RO & AC
04.02.2020**

Item No. 16

CRL.M.C. 190/2019

RAJESH KUMAR & ORS. V. STATE & ANR.

CW-2 MS MEENAKSHI W/O RAJESH KUMAR D/O RAJ KUMAR BANIWAL R/O H.NO. C-195, DOUBLE STOREY, TAGORE GARDEN EXTENSION PRESENT RESIDING AT H.NO.352, PRAJAPATI MOHALLA, MUNIRKA VILLAGE, NEW DELHI. AGED 28 YEARS 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 in support of the petition bears my signatures at point A & B on Ex.CW-2/B. I have signed my affidavit voluntarily of my own accord without any duress pressure or coercion from any quarter. A settlement has been arrived at between me and the petitioner No.1 at the Delhi Mediation Centre, Tis Hazari Courts on 26.05.2018 and since the last two years, i.e., 2018 I have been living with the petitioner No.1 and there are now no problems between me and the petitioners except some intermittent issues that keep getting resolved, I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.65/2016 PS Rajouri Garden registered under Sections 498-A/406/34 of the Indian Penal Code, 1860 nor do I want the petitioners to be punished in relation thereto in view of the settlement arrived at between me and the petitioners. I have two children born out of the wedlock between me and the petitioner No.1 aged 4 years and five months. I cannot read English. I can read Hindi.

I have studied till standard VIII and 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/4.2.2020