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

+ **CRL.M.C. 412/2020 & CRL.M.A. 3195/2021**

RAM KRISHNA & ORS

..... Applicant

Through: Mr.Dewan Singh, Advocate.

Versus

THE STATE & ANR

.....Respondent

Through: Mr.Sanjeev Sabharwal, APP for State
with SI Vinod Nain.

R-2 in person with Mr.Kapil Kumar,
Advocate for R-2.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **26.02.2021**

(hearing through Video Conferencing)

CRL.M.A. 3195/2021 in CRL.M.C. 412/2020

CRL.M.A. 3195/2021 has been filed on behalf of the petitioners to submit to the effect that the petitioner no.3 has expired and the copy of the death certificate as issued by the Government of Bihar has been placed on the record indicating the demise of the petitioner no.3 on 04.10.2016 which factum is affirmed by the complainant of the FIR i.e. the respondent no.2 herein. The petitioner no.3 is thus, directed to be deleted from array of parties.

The matter is indicated to have been listed for the date 04.05.2020 when it could not be taken up due to prevailing pandemic and has been re-notified for 22.04.2021 with the matter having been taken up on CRL.M.A. 3195/2021 filed on behalf of the petitioners submitting to the

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effect that a settlement has since been arrived at between the petitioners

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and the respondent no.2 and no useful purpose would be served by the continuation of the proceedings in relation to the present FIR.

The Investigating Officer of the case is present through Video Conferencing and has identified the petitioners as being the accused arrayed in the FIR in question and has also identified the respondent no.2 as being the complainant thereof.

The respondent no.2 in her deposition on oath in replies to specific Court queries has affirmed the factum of the settlement arrived at between her and the petitioners and has also testified to the effect that the marriage between her and the petitioner no.1 has since been dissolved vide a decree of divorce through mutual consent under Section 13B(2) of the HMA, 1955 in HMA Petition No.1230/2019 vide a decree dated 14.08.2019 of the Court of the learned Principal Judge, Family Court, THC, New Delhi and has stated that the total settled sum of Rs.5,00,000/- has since been received by her from the petitioners and has further stated that there are now no claims of hers left against the petitioner nos. 1, 2 & 4 and has affirmed that the petitioner no.3 has already expired. She has further stated that there is no child born of the wedlock between her and the petitioner no.1. The respondent no.2 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.296/2016, PS Sarai Rohilla under Sections 498A/406/34 of the Indian Penal Code, 1860 nor does she want them to be punished in relation thereto.

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 and the deposition of the respondent no.2.

In view of the deposition of the respondent no.2 and there being no reason to disbelieve that she has arrived at a settlement with the petitioners voluntarily of her own accord without any duress, coercion or pressure from any quarter and has understood the implications of the statement made by her as the respondent no.2 is apparently well educated having done her MA in public administration, in as much as, the FIR is apparently emanated from a matrimonial discord which has since been resolved by the dissolution of the marriage between the petitioner no.1 and the respondent no.2, for maintenance of peace and harmony between the parties it is considered appropriate to put a quietus to the litigation between the parties in relation to the FIR in question 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.

....."

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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)

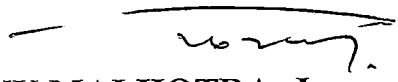
In view thereof, the FIR No.296/2016, PS Sarai Rohilla under Sections 498A/406/34 of the Indian Penal Code, 1860 and all

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consequential proceeding emanating therefrom against the petitioners are thus quashed.

The petition CRL.M.C. 412/2020 and the accompanying application CRL.M.A. 3195/2021 are disposed of accordingly.

The date 22.04.2021 stands cancelled.


ANU MALHOTRA, J

FEBRUARY 26, 2021

'neha chopra'