

Sachin & Ors vs State Nct Of Delhi & Anr on 28 January, 2022

Author: Anu Malhotra

Bench: Anu Malhotra

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(CRL) 192/2022 and CrI.M.A. No. 1779/2022

SACHIN & ORS.

..... Petitioner

Through: Mr.U.A. Khan

versus

STATE NCT OF DELHI & ANR.

..... Respondents

Through: Mr.Piyush Singhal, Advocate for
Mr.Ashish Aggarwal, ASC for State

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA
ORDER

% 28.01.2022 (Through Video Conferencing) Exemption allowed, subject to just exceptions. W.P.(Crl.) 192/2022 The petitioner Nos. 1 to 6, namely, Sachin, Suresh Pal, Sudesh Rani, Meenakshi, Pooja and Savita Rani, seek quashing of the FIR No. 548/2019, Police Station Bhajanpura registered under Sections 406/498A/34 of the Indian Penal Code, 1860 and Sections 3/4 of the Dowry Prohibition Act, 1961, submitting to the effect that a settlement has been arrived at between the parties vide a mediation settlement dated 27.9.2021 arrived at the Delhi Mediation Centre, Karkardooma and that the marriage between petitioner No.1 and the respondent No.2 has since been dissolved vide a decree of divorce through mutual consent under Section 13B(2) of the HMA, 1955, dated 15.12.2021 in HMA No. 947/2021 of the Court of the Judge, Family Signature Not Verified Digitally Signed By: SUMIT GHAI Signing Date: 31.01.2022 14:26:17 This file is digitally signed by PS to HMJ ANU MALHOTRA.

Courts, North East, Karkardooma Courts and that the entire settled sum of Rs.19,50,000/- has since been paid by the petitioners to the respondent No.2 in terms of the mediation settlement dated 27.9.2021 and that no useful purpose would be served by the continuation of the proceedings qua the FIR in question.

The Investigating Officer of the case has identified the petitioners No. 1 to 6, namely, Sachin, Suresh Pal, Sudesh Rani, Meenakshi, Pooja and Savita Rani, present in the Court today through video conferencing as being the six accused arrayed in relation to the FIR in question and the respondent No.2 present through video conferencing as being the complainant thereof.

On behalf of the State it is submitted that the petitioners No.1 to 4 and 6 were charge sheeted and the petitioner No.5 was put in column No.12 of the charge sheet.

The respondent No.2 in her deposition on oath in replies to specific Court queries affirms the factum of the mediation settlement arrived at between her and the petitioner Nos. 1 to 6 vide a mediation settlement dated 27.9.2021 arrived at the Delhi Mediation Centre, Karkardooma Courts and states that in terms of the said settlement she has received a sum of Rs.19,50,000/- from the petitioners of which Rs.15,00,000/- has been received by her previously and the balance amount of Rs.4,50,000/- has been received by her today during the course of the present proceedings vide a demand draft bearing No. 039412 dated 18.1.2022 drawn on HDFC Bank, Yamuna Vihar in her favour and that there are no claims of hers left against the petitioners. She also affirms the factum of the dissolution of her marriage with the petitioner No.1 vide a decree of divorce through mutual consent under Section 13B(2) of the HMA, 1955, dated 15.12.2021 in HMA No. Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:31.01.2022 14:26:17 This file is digitally signed by PS to HMJ ANU MALHOTRA.

947/2021 of the Court of the Judge, Family Courts, North East, Karkardooma Courts. She states that there is no child born of the wedlock between her and the petitioner No.1 and that in view of the settlement arrived at between her and the petitioners, she does not oppose the prayer made by the petitioners namely, Sachin, Suresh Pal, Sudesh Rani, Meenakshi, Pooja and Savita Rani, seeking quashing of the FIR No. 548/2019, Police Station Bhajanpura registered under Sections 406/498A/34 of the Indian Penal Code, 1860 and Sections 3/4 of the Dowry Prohibition Act, 1961, nor does she want the petitioners to be punished in relation thereto.

Inter alia she states that she so states voluntarily of her own accord without any duress, pressure or coercion from any quarter and after understanding the implications of the statement made by her.

On behalf of the State it has been submitted that 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.

Taking into account the deposition of the respondent No.2 and there being no reason to disbelieve her statement that she has arrived at a settlement with the petitioners voluntarily of her own accord and that all her claims stand settled and 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 13B(2) of the Hindu Marriage Act, 1955 as aforementioned and taking into account also the aspect that there appears no reason to disbelieve the statement made by the respondent No.2 in as much as she is well educated and states that she is a post graduate in Hindi and teaches, it is considered appropriate to put a quietus to the Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:31.01.2022 14:26:17 This file is digitally signed by PS to HMJ ANU MALHOTRA.

litigation between the parties qua the FIR in question and for the maintenance of peace and harmony between them in view of the observations in the verdict 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 Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:31.01.2022 14:26:17 This file is digitally signed by PS to HMJ ANU MALHOTRA.

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. They 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 Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:31.01.2022 14:26:17 This file is digitally signed by PS to HMJ ANU MALHOTRA.

of justice require that the proceedings ought to be quashed...."

(emphasis supplied), FIR No. 548/2019, Police Station Bhajanpura registered under Sections 406/498A/34 of the Indian Penal Code, 1860 and Sections 3/4 of the Dowry Prohibition Act, 1961, and all consequential proceedings emanating therefrom against the petitioner Nos. 1 to 6 Sachin, Suresh Pal, Sudesh Rani, Meenakshi, Pooja and Savita Rani are thus quashed.

The petition is disposed of.

ANU MALHOTRA, J JANUARY 28, 2022/SV Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:31.01.2022 14:26:17 This file is digitally signed by PS to HMJ ANU MALHOTRA.

IN THE HIGH COURT OF DELHI, NEW DELHI Item No.57 SACHIN & ORS V. STATE NCT OF DELHI & ANR.

CW-1 ASI OM PRAKASH POLICE BHAJANPURA ON S.A. I am the Investigating Officer of FIR No. 548/2019, Police Station Bhajanpura registered under Sections 406/498A/34 of the Indian Penal Code, 1860 and Sections 3/4 of the Dowry Prohibition Act. I identify the petitioners No. 1 to 6, namely, Sachin, Suresh Pal, Sudesh Rani, Meenakshi, Pooja and Savita Rani, present in the Court today through video conferencing as being the six accused arrayed in relation to the FIR in question. I also identify the respondent No.2 present through video conferencing as being the complainant thereof.

ANU MALHOTRA, J RO & AC 28.01.2022 Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:31.01.2022 14:26:17 This file is digitally signed by PS to HMJ ANU MALHOTRA.

IN THE HIGH COURT OF DELHI, NEW DELHI Item No.57 SACHIN & ORS V. STATE NCT OF DELHI & ANR.

CW-2 MEGHA SINGH D/O RAMVIR SINGH AGED 31 YEARS, R/O C-54-A, GALI NO.1/2, THANA ROAD, BHAJANPURA, DELHI ON S.A. The mediation settlement dated 27.9.2021 arrived at the Delhi Mediation Centre, Karkardooma bears my signatures thereon. Likewise my affidavit dated

13.1.2022 bears which I have signed voluntarily of my own accord without any duress, pressure or coercion from any quarter. In view of the settlement arrived at between me and the petitioners I have since received a sum of Rs.19,50,000/- from the petitioners of which Rs.15,00,000/- has been received by me previously and the balance amount of Rs.4,50,000/- has been received by me today during the course of the present proceedings vide a demand draft bearing No. 039412 dated 18.1.2022 drawn on HDFC Bank, Yamuna Vihar in my favour. There are no claims of mine left against the petitioners. There is no child born of the wedlock between me and the petitioner No.1. Pursuant to said settlement the marriage between me 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, dated 15.12.2021 in HMA No. 947/2021 of the Court of the Judge, Family Courts, North East, Karkardooma Courts. In view of the settlement arrived at between me and the petitioners, I do not oppose the prayer made by the petitioners namely, Sachin, Suresh Pal, Sudesh Rani, Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:31.01.2022 14:26:17 This file is digitally signed by PS to HMJ ANU MALHOTRA.

Meenakshi, Pooja and Savita Rani, seeking quashing of the FIR No. 548/2019, Police Station Bhajanpura registered under Sections 406/498A/34 of the Indian Penal Code,1860 and Sections 3/4 of the Dowry Prohibition Act nor do I want the petitioners to be punished in relation thereto. I have made my statement voluntarily of my own accord without any duress, pressure or coercion from any quarter.

I have done Masters in Hindi and I teach. I have understood the implications of the statement made by me which I have made voluntarily of my own accord without any duress, pressure or coercion from any quarter and I do not want to think again.

ANU MALHOTRA, J RO & AC 28.01.2022 Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:31.01.2022 14:26:17 This file is digitally signed by PS to HMJ ANU MALHOTRA.