

# Sh. Devender Kumar & Ors vs The State (Nct Of Delhi) & Anr on 7 October, 2022

**Author: Anu Malhotra**

**Bench: Anu Malhotra**

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IN THE HIGH COURT OF DELHI AT NEW DELHI  
CRL.M.C. 3706/2022 & CRL.M.A. 15480/2022  
SH. DEVENDER KUMAR & ORS.

Through: Petitioners in person with Advocate. .... P

versus

THE STATE (NCT OF DELHI) & ANR. .... R

Through: Mr. Shoaib Haider, APP for with SI Nimesh Yadav, PS Begumpur.  
R-2 in person with Mr. Dine & Mr. Parveen Kumar, Advoca R-2.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA  
ORDER

% 07.10.2022 CRL.M.A. 15480/2022 (Ex.) Exemption allowed subject to all just exceptions. The application stands disposed of.

The petitioners, vide the present petition seek the quashing of the FIR No. 309/2015, PS Begampur under Sections 498A/406/34 of the Indian Penal Code, 1860 submitting to the effect that a settlement has since been arrived at between the parties to the petition vide a settlement document dated 23.04.2019 arrived at the Counselling Cell of the Court of the learned Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:10.10.2022 17:55:07 This file is digitally signed by PS to HMJ ANU MALHOTRA.

Judge, Family Courts, North-West, Rohini, Delhi, that the total settled sum of Rs.2,25,000/- has been paid to the respondent no.2 by the petitioners, 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 HMA, 1955 in HMA No.1741/2019 vide a decree dated 07.08.2019 of the Court of the learned Principal Judge, Family Court, North-West, Rohini Courts, Delhi and no useful purpose would be served by the continuation of the proceedings qua the FIR in question.

The deputed Investigating Officer of the case is present and has identified the petitioner nos. 1 to 3 i.e. petitioner no.1 Devender Kumar, petitioner no.2 Ravinder and petitioner no.3 Sona Devi present

in Court as being the three accused arrayed in the FIR No. 309/2015, PS Begampur under Sections 498A/406/34 of the Indian Penal Code, 1860 and has also identified the respondent no.2 Ms. Reena as being the complainant thereof.

The respondent no.2 in her deposition on oath in replies to specific Court queries has affirmed having signed her affidavit dated 29.07.2022 as her non-opposition to the prayer made by the petitioners seeking the quashing of the FIR in question as well as the settlement document dated 23.04.2019 arrived at between her and the petitioner no.1 at the Counselling Cell of the Court of the learned Judge, Family Courts, North-West, Rohini, Delhi qua which she states that he has signed both these documents voluntarily of her own accord without any duress, coercion or pressure from any quarter. She has affirmed the factum of dissolution of her marriage with the petitioner no.1 vide a decree of divorce through mutual consent as aforementioned. She has also affirmed the factum of receipt of the total Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:10.10.2022 17:55:07 This file is digitally signed by PS to HMJ ANU MALHOTRA.

settled sum of Rs.2,25,000/- from the petitioners qua which she has stated that a sum of Rs.1,50,000/- had been received by her previously during the course of the proceedings under Section 13B(1) and 13B(2) of the HMA and the balance sum of Rs.75,000/- has now been handed over to her today during the course of the present proceedings vide a demand draft bearing no. 513089 dated 04.10.2022 drawn on the Punjab National Bank in her favour and she has stated that there are now no claims of hers left against the petitioners.

The respondent no.2 in reply to a further Court query has stated that after the dissolution of her marriage with the petitioner no.1, there is a son born of the wedlock between them who is in the custody of the petitioner no.1 and that she has since re-married on 28.11.2019. She has further stated that she has studied till Standard VIII and has understood the implications of the statement made by her and that in view of the settlement arrived at between her and the petitioner no.1, she do not oppose the prayer made by the petitioner nos. 1 to 3 seeking the quashing of the FIR No. 309/2015, PS Begampur under Sections 498A/406/34 of the Indian Penal Code, 1860 nor does she want them to be punished in relation thereto.

The learned APP for the State in the circumstances of the case also does not oppose 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 as there appears no reason to disbelieve the statement made by the respondent no.2 that she has arrived at a settlement with the petitioners voluntarily of her own accord without any duress, coercion or pressure from any quarter, in as Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:10.10.2022 17:55:07 This file is digitally signed by PS to HMJ ANU MALHOTRA.

much as, the FIR has apparently emanated from a matrimonial discord between the petitioner no.1 and the respondent no.2 which has since been resolved by the dissolution of their marriage vide a decree of divorce through mutual consent and taking into account the factum that the child born of the wedlock between the petitioner no.1 and the respondent no.2 being in the custody of the

petitioner no.1 and that the respondent no.2 has since been re-married as testified by the respondent no.2, for maintenance of peace and harmony between the parties and for the well being of the child born of the wedlock between the petitioner no.1 and the respondent no.2, it is considered appropriate to put a quietus to the litigation between the parties 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 Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:10.10.2022 17:55:07 This file is digitally signed by PS to HMJ ANU MALHOTRA.

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 of justice require that the proceedings ought to be Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:10.10.2022 17:55:07 This file is digitally signed by PS to HMJ ANU MALHOTRA.

quashed...."

(emphasis supplied), In view thereof, FIR No. 309/2015, PS Begampur under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioner nos. 1 to 3 i.e. petitioner no.1 Devender Kumar, petitioner no.2 Ravinder and petitioner no.3 Sona Devi are thus quashed.

The petition is disposed of accordingly.

ANU MALHOTRA, J OCTOBER 7, 2022 nc Signature Not Verified Digitally Signed By:SUMIT GHAI  
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IN THE HIGH COURT OF DELHI: NEW DELHI ITEM No.01 SH. DEVENDER KUMAR & ORS.  
versus THE STATE (NCT OF DELHI) & ANR.

07.10.2022 CW-1 SI Nimesh Yadav, PS Begampur.

ON S.A. I have been deputed to attend the proceedings qua FIR No. 309/2015, PS Begampur under Sections 498A/406/34 of the Indian Penal Code, 1860.

There are three accused arrayed in the FIR in question. I identify the petitioner nos. 1 to 3 i.e. petitioner no.1 Devender Kumar, petitioner no.2 Ravinder and petitioner no.3 Sona Devi present today in Court as being the three accused arrayed in the aforesaid FIR and I also identify the respondent no.2 Ms. Reena as being the complainant thereof.

RO & AC  
07.10.2022

ANU MALHOTRA, J

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MALHOTRA.

IN THE HIGH COURT OF DELHI: NEW DELHI ITEM No.01 SH. DEVENDER KUMAR & ORS.  
versus THE STATE (NCT OF DELHI) & ANR.

07.10.2022 CW-2 Ms. Reena, D/o Sh. Ranbir Singh, aged 33 years, R/o D-348, D-4, BEGUMPUR, DELHI.

ON S.A. My affidavit dated 29.07.2022 as my non-opposition to the prayer made by the petitioners seeking the quashing of the FIR in question and the settlement document dated 23.04.2019 arrived at between me and the petitioner no.1 at the Counselling Cell of the Court of the learned Judge, Family Courts, North-West, Rohini, Delhi bear my signatures thereon, which I have signed voluntarily of my own accord without any duress, coercion or pressure from any quarter.

In view of the settlement arrived at between me and the petitioner no.1, the total settled sum of Rs.2,25,000/- had been agreed to be paid to me by the petitioners, of which a sum of Rs.1,50,000/- had been received by me previously during the course of the proceedings under Section 13B(1) and 13B(2) of the HMA and the balance sum of Rs.75,000/- has now been handed over to me today during the course of the present proceedings vide a demand draft bearing no. 513089 dated 04.10.2022 drawn on the Punjab National Bank in my favour There are now no claims of mine left against the petitioners. The marriage between me and the petitioner no.1 has since been dissolved vide a decree of divorce through mutual consent under Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:10.10.2022 17:55:07 This file is digitally signed by PS to HMJ ANU MALHOTRA.

Section 13B(2) of the HMA, 1955 in HMA No.1741/2019 vide a decree dated 07.08.2019 of the Court of the learned Principal Judge, Family Court, North-West, Rohini Courts, Delhi.

After dissolution of my marriage with the petitioner no.1 with whom there is a son born of the wedlock who is in the custody of the petitioner no.1, I have since re-married on 28.11.2019.

In view of the settlement arrived at between me and the petitioner no.1, I do not oppose the prayer made by the petitioner nos. 1 to 3 seeking the quashing of the FIR No. 309/2015, PS Begampur under Sections 498A/406/34 of the Indian Penal Code, 1860 nor do I want them to be punished in relation thereto.

I have studied till Standard VIII.

I have made my statement after understanding the implications thereof voluntarily of my own accord without any duress, coercion or pressure from any quarter and I do not need to think again.

RO & AC  
07.10.2022

ANU MALHOTRA, J

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