

Sarabjeet Singh Anand vs State Of Nct Of Delhi on 14 August, 2020

Author: Anu Malhotra

Bench: Anu Malhotra

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CRL.M.C. 1566/2020, CRL.M.A. 10898/2020 & CRL.M.A. 10899/2020

SARABJEET SINGH ANAND Pet

Through: Petitioner nos.1, 2 & 4 in person
Mr.Ankit Miglani, Advocate.

Versus

STATE OF NCT OF DELHI Respo

Through: Mr.Ashok Kumar Garg, APP for Stat
with SI Jyoti, PS Model Town.
R-2 in person.

HON'BLE MS. JUSTICE ANU MALHOTRA
ORDER

% 14.08.2020
(hearing through Video Conferencing)
CRL.M.A. 10899/2020 (Ex.)

Exemption allowed subject to all just exceptions. The application stands disposed of.

CRL.M.C. 1566/2020 & CRL.M.A. 10898/2020 In terms of the order dated 28.07.2020, the learned counsel for the petitioners has filed an application CRL.M.A. 10898/2020 seeking impleadment of other persons i.e. the father-in-law, mother-in-law and brother-in-law and the respondent no.2 arrayed as accused in FIR No.137/2018, PS Model Town under Sections 498A/406/34 of the Indian Penal Code, 1860 as parties to the petition.

In as much as, it had been submitted on behalf of the State on 14.07.2020 that the father-in-law, mother-in-law and brother-in-law arrayed as accused in the FIR are not arrayed as parties to the petition, the amended memo of parties now submitted on the record is taken on record as being the memo of parties. CRL.M.A. 10898/2020 is disposed of.

The petitioner nos.1, 2 & 4 are present through Video Conferencing and the petitioner no.3 is stated to be unable to join the proceedings today.

The Investigating Officer of the case is also present through Video Conferencing and has identified the petitioner no.1 Mr.Sarabjeet Singh, petitioner no.2 Smt.Mandeep Kaur and petitioner no.4 Mr.Jaskaran Singh Anand present today through Video Conferencing as being the three accused out of the four accused persons arrayed in the FIR No.137/2018, PS Model Town registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and the allegations levelled against the petitioner no.1 under Section 377 of the Indian Penal Code, 1860 and she has also identified the respondent no.2 Ms.Gurmeet Kaur as being the complainant thereof. The Investigating Officer has also affirmed the factum that the petitioner no.1 and the respondent no.2 are now living together.

The statement of the respondent no.2 has also been recorded. The respondent no.2 in her examination on oath by the Court in replies to specific Court queries has affirmed the factum of settlement that has been arrived at between her and the petitioner no.1 on 13.12.2019 and has further submitted that thereafter, she has been living peacefully at her matrimonial home with the petitioner no.1 and with other petitioners i.e. my father-in-law, mother-in-law and brother-in-law without any problems now and that presently she is in the family way with her second child and that she wants to continue to live with 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.137/2018, PS Model Town registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and the allegations levelled against the petitioner no.1 under Section 377 of the Indian Penal Code, 1860 nor does she want the petitioners to be punished in relation thereto.

On behalf of the State, there is no opposition to the prayer made by the petitioner nos. 1 to 4 as per the amended memo of parties seeking the quashing of the FIR in question in view of the settlement arrived at between the parties and in view of the deposition of the respondent no.2.

The respondent no.2 is apparently well educated as being a graduate and has understood the implications of the statement made by her and 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 as the petitioner no.1 and the respondent no.2 are living peacefully now and the said factum has verified by the Investigating Officer of the case, for maintenance of peace and harmony between the parties and for the well being of 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.

..... "

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. 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 quashed...."

(emphasis supplied), In view thereof, the FIR No.137/2018, PS Model Town registered under Sections 498A/406/34 of the Indian Penal Code, 1860 against the petitioner nos. 1 to 4 and the said FIR in relation to the allegations levelled against the petitioner no.1 under Section 377 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioners are thus, quashed.

The petition is disposed of accordingly.

ANU MALHOTRA, J AUGUST 14, 2020 „neha chopra IN THE HIGH COURT OF DELHI: NEW DELHI SARABJEET SINGH ANAND Versus STATE OF NCT OF DELHI 14.08.2020 CW-1 SI Jyoti, PS Model Town.

ON S.A. I identify the petitioner no1 Mr.Sarabjeet Singh, petitioner no.2 Smt.Mandeep Kaur and petitioner no.4 Mr.Jaskaran Singh Anand present today through Video Conferencing as being the three accused out of the four accused persons arrayed in the FIR No.137/2018, PS Model Town registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and the allegations levelled against the petitioner no.1 under Section 377 of the Indian Penal Code, 1860 and I also identify the respondent no.2 Ms.Gurmeet Kaur as being the complainant thereof.

I also affirm the factum that the Petitioner no. 1 and the Respondent no.2 are living together.

R0 & AC
14.08.2020

ANU MALHOTRA, J

IN THE HIGH COURT OF DELHI: NEW DELHI

SARABJEET SINGH ANAND Versus STATE OF NCT OF DELHI 14.08.2020 CW-2 Ms.Gurmeet Kaur, w/o Mr.Sarabjeet Singh, d/o Mr.Kulvinder Singh, age 32 years, r/o A2/38, Rajouri Garden, New Delhi. ON S.A. In view of the settlement arrived at between me and the petitioner no.1 on 13.12.2019, I am living peacefully at my matrimonial home with the petitioner no.1 and with other petitioners i.e. my father-in-law, mother-in-law and brother- in-law without any problems now and presently I am in the family way with my second child and I want to continue to live with the petitioner no.1.

In view thereof, I do not oppose the prayer made by the petitioners seeking the quashing of the FIR No.137/2018, PS Model Town registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and the allegations levelled against the petitioner no.1 under Section 377 of the Indian Penal Code, 1860 nor do I want the petitioners to be punished in relation thereto.

I am a graduate and I am a home maker.

I have made my statement after understanding the implications thereof voluntarily of my own accord without any duress, coercion or pressure from any quarter.

RO & AC
14.08.2020

ANU MALHOTRA, J