

Manoj Kumar & Ors vs State Of Nct Of Delhi & Anr on 25 January, 2021

Author: Anu Malhotra

Bench: Anu Malhotra

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CRL.M.C. 150/2021

MANOJ KUMAR & ORS.

Through:

..... Petiti
Pramod Kumar, Adv with petit
in person

versus

STATE OF NCT OF DELHI & ANR.

..... Respondents

Through: Mr.Raghuvinder Varma,APP for State
with SI Naveen Dahiya
Mr.Krishan Kumar, Adv for R-2

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA
ORDER

% 25.01.2021 (Through Video Conferencing) Exemption allowed, subject to just exceptions.

The petitioners No. 1 to 5, namely, Manoj Kumar, Mahesh Kumar, Bharat Kumar, Kavita and Sushila Rani seek the quashing of the FIR No. 189/2018, Police Station Rohini (North) registered under Sections 498A/406/34 of the Indian Penal Code, 1860, submitting to the effect that a settlement has been arrived at between the parties and no useful purpose would be served by the continuation of the proceedings qua the FIR in question.

The Investigating Officer of the case is present and has identified the petitioners No.1 to 5 present in Court today through video conferencing as being the five accused arrayed in FIR No. 189/2018, Police Station Rohini Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:27.01.2021 15:54:14 This file is digitally signed by PS to HMJ ANU MALHOTRA.

(North) registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and the respondent no.2 present in the Court today through Video conferencing as being the complainant of the said FIR.

The respondent no.2, on her examination on oath, in replies to specific Court queries has affirmed the factum of settlement arrived at between her and the petitioner no.1 dated 22.1.2020, and submits that pursuant thereto she has received a total settled sum of Rs. 5,00,000/- from the petitioners and now there are no claims of hers left against the petitioners. She states that in view of

the settlement the marriage between her and the petitioner No.1 has since been dissolved vide a decree of divorce through mutual consent under Section 13 B (2) of the Hindu Marriage Act, 1955 vide decree dated 27.8.2020 in HMA 695/2020 of the Court of the Principal Judge Family Courts (North-West) Rohini and that there is no child born of the wedlock between her and the petitioner No.1 and also submits that now no claims of hers are left against the petitioners thus she does not oppose the prayer made by the petitioners seeking quashing of the FIR No. 189/2018, Police Station Rohini (North) registered under Sections 498A/406/34 of the Indian Penal Code, 1860, nor does she want the petitioners to be punished in relation thereto 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 question in view of the settlement arrived at between the parties and the deposition made by the respondent No.2.

Taking into account the deposition of respondent no.2 who is apparently educated enough as she states that she is a graduate there is Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:27.01.2021 15:54:14 This file is digitally signed by PS to HMJ ANU MALHOTRA.

apparently no reason to disbelieve her statement that she has arrived at a settlement with the petitioners No. 1 to 5 voluntarily of her own accord without any duress, pressure or coercion from any quarter in as much as the FIR has apparently emanated from a matrimonial discord which has since been resolved vide a decree of divorce through mutual consent under Section 13 B (2) of the Hindu Marriage Act, 1955 vide decree dated 27.8.2020 in HMA 695/2020 of the Court of the Principal Judge Family Courts (North-West) Rohini with all claims of the respondent No.2 having since been settled, it is considered appropriate to put a quietus to the 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 Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:27.01.2021 15:54:14 This file is digitally signed by PS to HMJ ANU MALHOTRA.

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 Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:27.01.2021 15:54:14 This file is digitally signed by PS to HMJ ANU MALHOTRA.

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), FIR No. 189/2018, Police Station Rohini (North) registered under Sections 498A/406/34 of the Indian Penal Code, 1860 against the petitioners 1 to 5, namely Manoj Kumar, Mahesh Kumar, Bharat Kumar, Kavita and Sushila Rani and all consequential proceedings emanating therefrom are thus quashed.

The petition is disposed of.

ANU MALHOTRA, J JANUARY 25, 2021/sv Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:27.01.2021 15:54:14 This file is digitally signed by PS to HMJ ANU MALHOTRA.

IN THE HIGH COURT OF DELHI NEW DELHI Item No.1 MANOJ KUMAR & ORS V. STATE OF NCT OF DELHI & ANR.

25.01.2021 CW-1 SI NAVEEN DAHIYA PS ROHINI (NORTH) On S.A. I am the Investigating Officer in relation to FIR No. 189/2018, Police Station Rohini (North) registered under Sections 498A/406/34 of the Indian Penal Code, 1860. I identify the petitioners 1 to 5, namely Manoj Kumar, Mahesh Kumar, Bharat Kumar, Kavita and Sushila Rani present in Court today through video conferencing as being the five accused arrayed in to FIR No. 189/2018, Police Station Rohini (North) registered under Sections 498A/406/34 of the Indian Penal Code, 1860. Apart from these five accused there is no other person arrayed as accused in the FIR. I also identify the respondent no.2 present in the Court today through video conferencing as being the complainant of the FIR in question.

ANU MALHOTRA, J RO & AC 25.01.2021 Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:27.01.2021 15:54:14 This file is digitally signed by PS to HMJ ANU MALHOTRA.

IN THE HIGH COURT OF DELHI NEW DELHI Item No.1 MANOJ KUMAR & ORS V. STATE OF NCT OF DELHI & ANR.

25.01.2021 CW-2 PREETI D/O DAUJPAL SINGH R/O B-6/225, SECTOR- 8, ROHINI, DELHI AGED 32 YTEARS On S.A. In view of the settlement arrived at between me and the petitioners dated 22.1.2020 whereby a total settled sum of Rs.5,00,000/- has been received by me from the petitioners and the dissolution of the marriage between me and the petitioner No.1 vide a decree of divorce through mutual consent under Section 13 B (2) of the Hindu Marriage Act, 1955 vide decree dated 27.8.2020 in HMA 695/2020 of the Court of the Principal Judge Family Courts (North- West) Rohini, I do not oppose the prayer made by the petitioners 1 to 5 seeking the quashing of the FIR No. 189/2018, Police Station Rohini (North) registered under Sections 498A/406/34 of the Indian Penal Code, 1860, nor do I want the petitioners No. 1 to 5 to be punished in relation thereto. There is no child born of the wedlock between me and the petitioner No.1.

I have made my statement voluntarily of my own accord without any duress, pressure or coercion from any quarter. I am a graduate and have understood the implications of the statement made by me.

ANU MALHOTRA, J RO & AC/25.01.2021 Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:27.01.2021 15:54:14 This file is digitally signed by PS to HMJ ANU MALHOTRA.