

Arun Kumar & Ors vs State (Govt. Of Nct Of Delhi) And Anr on 20 May, 2022

Author: Anu Malhotra

Bench: Anu Malhotra

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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(CRL) 1173/2022 & CRL.M.A. 9928/2022

ARUN KUMAR & ORS.

..... Petitioners

Through: Mr. Raj Kumar, Advocate with
Petitioner Nos.1 to 7 in-person.

versus

STATE (GOVT. OF NCT OF DELHI) AND ANR. Respondents

Through: Ms. Kamna Vohra, ASC for State
through VC.

SI Rajbir Singh, PS Jyoti Singh.

Mr. Anil Kr. Srivastava, Advocate

R-2 with R-2 in-person.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% 20.05.2022 CRL.M.A. 9928/2022 (Ex.) Exemption allowed subject to all just exceptions. The application is disposed of accordingly. W.P.(CRL) 1173/2022 The petitioners, vide the present petition seek the quashing of the FIR No.49/2021, PS Jyoti Nagar, under Sections 498A/406 of the Indian Penal Code, 1860 submitting to the effect that a settlement has been arrived at between the parties to the petition vide a settlement document dated 24.01.2022 at the Counselling Cell of the Court of the Principal Judge, Family Courts, Shahadara District, Karkardooma Courts and that the marriage between the petitioner no.1 and the respondent no.2 has also since been dissolved vide a decree of divorce through mutual consent under Section 13B(2) of the HMA, 1955 in HMA Petition No.427/2022 vide a Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:21.05.2022 18:52:22 This file is digitally signed by PS to HMJ ANU MALHOTRA.

decree dated 04.04.2022 of the Court of the learned Principal Judge, Family Court, Shahdara, Karkardooma Courts, New Delhi and all claims of the respondent no.2 have since been settled by the payment of the total settled sum of Rs.8,00,000/- by the petitioners to the respondent no.2, of which a sum of Rs.6,00,000/- has been paid to her previously and the balance sum of Rs.2,00,000/- has been handed over to her today by the petitioners during the course of the present proceedings vide a demand draft bearing No.121385 dated 10.05.2022 drawn on the Kotal Mahindra Bank Delhi in her favour and that there is no child born of the wedlock between respondent No.2 and the petitioner no.1 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 and has identified the petitioner nos. 1 to 7 i.e. the petitioner no.1 Arun Kumar, petitioner no.2 Prem Pal Singh, petitioner no.3 Laxmi Devi, petitioner no.4 Asha Rani, petitioner no.5 Meenakshi @ Meena, petitioner no.6 Karan Kumar and petitioner no.7 Rahul Dev present today in Court as being the seven accused arrayed in FIR No.49/2021, PS Jyoti Nagar under Sections 498A/406 of the Indian Penal Code, 1860 and has also identified the respondent no.2 Ms. Pratibha as being the complainant of the said FIR.

The learned ASC for State has informed that the charge sheet in the case has not yet been filed. The Investigating Officer of the case in reply to a specific Court query states that no other provision of law has been invoked other than the provisions of Sections 498A/406 of the Indian Penal Code, 1860 nor has any other offence been brought out to have been committed during the course of the investigation.

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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 as aforementioned as well as the dissolution of the marriage between her and the petitioner no.1 vide a decree of divorce through mutual consent under Section 13B(2) of the HMA aforementioned. She has also affirmed the receipt of the total settled sum of Rs.8,00,000/- from the petitioners of which a sum of Rs.6,00,000/- lakhs has been received by her previously and the balance sum of Rs.2,00,000/- has now been handed over to her by the petitioner no.1 during the course of the present proceedings vide a demand draft bearing No. 121385 dated 10.05.2022 drawn on the Kotal Mahindra Bank Delhi in her favour and she has stated that there are now no claims of hers left against the petitioners. She has further testified to the effect that there is no child born of the wedlock between her and the petitioner no.1. She has further stated that she has signed the settlement deed dated 24.01.2022 and her affidavit dated 18.05.2022 as her non opposition to the prayer made by the petitioners seeking the quashing of the FIR No.49/2021, PS Jyoti Nagar under Sections 498A/406 of the Indian Penal Code, 1860 voluntarily of her own accord without any duress, coercion or pressure from any quarter.

In reply to a specific Court query, the respondent no.2 has stated that she is a graduate and is working and that she has made her statement voluntarily of her own accord without any duress, coercion or pressure from any quarter and has also understood the implications of the statement made by her.

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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 deposition of the respondent no.2 and the settlement arrived at between the parties.

In view of the deposition of the respondent no.2, non-opposition on behalf of the State, identification of the petitioners and the respondent no.2 by the Investigating Officer of the case and the settlement that has been arrived at between the parties, in as 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 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, for maintenance of peace and harmony between the parties 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:

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(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 Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:21.05.2022 18:52:22 This file is digitally signed by PS to HMJ ANU MALHOTRA.

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 Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:21.05.2022 18:52:22 This file is digitally signed by PS to HMJ ANU MALHOTRA.

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, FIR No.49/2021, PS Jyoti Nagar under Sections 498A/406 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioner nos. 1 to 7 i.e. the petitioner no.1 Arun Kumar, petitioner no.2 Prem Pal Singh, petitioner no.3 Laxmi Devi, petitioner no.4 Asha Rani, petitioner no.5 Meenakshi @ Meena, petitioner no.6 Karan Kumar and petitioner no.7 Rahul Dev are thus quashed.

The petition is disposed of accordingly.

ANU MALHOTRA, J MAY 20, 2022 ha Signature Not Verified Digitally Signed By:SUMIT GHAI
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20.05.2022 CW-1 SI Rajbir Singh, PS Jyoti Nagar.

ON S.A. I am the Investigating Officer of FIR No.49/2021, PS Jyoti Nagar under Sections 498A/406 of the Indian Penal Code, 1860. There are seven accused in this case.

I identify the petitioner nos. 1 to 7 i.e. the petitioner no.1 Arun Kumar, petitioner no.2 Prem Pal Singh, petitioner no.3 Laxmi Devi, petitioner no.4 Asha Rani, petitioner no.5 Meenakshi @ Meena, petitioner no.6 Karan Kumar and petitioner no.7 Rahul Dev present today in Court as being the seven accused arrayed in the aforesaid FIR and I also identify the respondent no.2 Ms. Pratibha as being the complainant thereof.

The charge sheet in the case has not been filed so far. Apart from the provisions of Sections 498A/406 of the Indian Penal Code, 1860, there are no other offences alleged to have been committed nor has any other provision of law been invoked.

RO & AC
20.05.2022

ANU MALHOTRA, J

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IN THE HIGH COURT OF DELHI: NEW DELHI W.P.(CRL) 1173/2022 ARUN KUMAR & ORS.
versus STATE (GOVT. OF NCT OF DELHI) AND ANR.

20.05.2022 CW-2 Ms. Pratibha, D/o Sh. Sushil Kumar, aged 29 years, r/o D-1/216, Gali No.4,
Ashok Nagar, Nand Nagri, Delhi.

ON S.A. My affidavit dated 18.05.2022 and the memorandum of understanding/ settlement deed dated 24.01.2022 of the Counselling Cell, Karkardooma Courts of the Family Courts, Shahadara, placed on record bear my signatures thereon and I have signed both these documents 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 petitioners, a total sum of Rs.8,00,000/- had been agreed to be paid to me by the petitioners, out of which I have received a sum of Rs.6,00,000/- previously and the balance sum of Rs.2,00,000/- has now been handed over to me by the petitioners during the course of the present proceedings vide a demand draft bearing No.121385 dated 10.05.2022 drawn on the Kotal Mahindra Bank Delhi in my favour and that 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 Section 13B(2) of the HMA, 1955 in HMA Petition No.427/2022 vide a decree dated 04.04.2022 of the Court of the learned Principal Judge, Family Court, Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:21.05.2022 18:52:22 This file is digitally signed by PS to HMJ ANU MALHOTRA.

Shahdara, New Delhi. There is no child born of the wedlock between me and the petitioner no.1.

I do not oppose the prayer made by the petitioners seeking the quashing of the FIR No.49/2021, PS Jyoti Nagar under Sections 498A/406 of the Indian Penal Code, 1860 nor do I want the petitioner Nos.1 to 7 to be punished in relation thereto.

I am a graduate and working.

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
20.05.2022

ANU MALHOTRA, J

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