

# **Mahesh@ Mahesh Thakur And Ors vs The State Govt. Of Nct Of Delhi And Anr on 29 January, 2021**

**Author: Anu Malhotra**

**Bench: Anu Malhotra**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
+ CRL.M.C. 253/2021

MAHESH@ MAHESH THAKUR AND ORS ..... Petitioners  
Through: Mr.Deepak Kumar, Advocate with  
petitioners in person.

versus

THE STATE GOVT. OF NCT OF DELHI AND ANR... Respondents  
Through: Mr.Raghuvinder Varma,APP for State  
with ASI Pritam Singh PS Ambedkar  
Nagar  
R-2 in person.

CORAM:  
HON'BLE MS. JUSTICE ANU MALHOTRA  
ORDER

% 29.01.2021 Exemption allowed, subject to just exceptions.

The petitioners vide the present petition seek the quashing of the FIR No. 192/2018 PS Ambedkar Nagar registered 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 vide a settlement deed dated 23.11.2019 arrived at the Counselling Cell, Family Courts, South Saket, pursuant to which the marriage between the petitioner No.1 and respondent no.2 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 5.12.2020 in HMA 965/2020 of the Court of the Principal Judge Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:01.02.2021 16:55:53 This file is digitally signed by PS to HMJ ANU MALHOTRA.

Family Courts, South Saket, Delhi and all claims of the respondent no.2 against the petitioners have since been settled and no useful purpose would be served by the continuation of the proceedings in the FIR.

The Investigating Officer of the case is present and has identified the petitioners No.1 to 5, namely, Mahesh Thakur, Balram, Kamlesh, Rahul and Preeti, present in the Court today and as being the accused in FIR No.192/2018, PS Ambedkar Nagar under Sections 498A/406/34 Indian Penal Code,

1860 and submitted that apart from the petitioners No.1 to 5, no other person/persons is/are arrayed as the accused in relation to the present FIR and he has also identified the respondent no. 2, Gargi Verma, present in the Court today, as being the complainant of the said FIR.

The respondent no.2 in reply to specific Court queries has affirmed having signed the settlement document dated 23.11.2019 arrived at the Counselling Cell, Family Courts, South Saket and states that as per the settlement a total sum of Rs.2,25,000/- had been agreed to be paid to her by the petitioners of which a sum of Rs.70,000/- and Rs. 75,000/- have already been received by her during the course of the proceedings under Section 13 B(1) and 13 B(2) of the Hindu Marriage Act, 1955 and the balance sum of Rs.80,000/- has now since been received by her today during the course of the present proceedings in the Court in the form of a Demand Draft bearing No. 967327 dated 18.12.2020 for a sum of Rs.80,000/- drawn on Canara Bank, Multan Nagar, in her favour and now there are no claims of hers left against the petitioners. She further submits that the marriage between her and the petitioner No.1 has since been dissolved vide a decree of divorce through mutual consent dated 5.12.2020 in HMA No.965/2020 of the Court of the Principal Judge, Family Courts, South Saket, New Delhi and that in Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:01.02.2021 16:55:53 This file is digitally signed by PS to HMJ ANU MALHOTRA.

view of the settlement arrived at between her and the petitioners all her claims against the petitioners have since been settled and thus she does not oppose the prayer made by the petitioners No.1 to 5 through the present petition seeking the quashing of the FIR No. 192/2018, Police Station Ambedkar Nagar, registered under Sections 498A/406/34 of the Indian Penal Code, 1860 nor does she want the petitioners to be punished in relation thereto.

Inter alia the respondent no.2 submits that there is no child born of the wedlock between her and the petitioner No.1. She states that she has made her statement voluntarily of her own accord without any duress, pressure or coercion from any quarter and that she is a graduate in Administration and works as an HR Journalist and states that she has understood the implications of the statement made by her and she does not need to think again.

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.

In view of the deposition of the respondent No.2 qua and there being 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, pressure or coercion from any quarter in view of the settlement arrived at between the parties and that the FIR has apparently emanated due to 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 5.12.2020 in HMA No.965/2020 of Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:01.02.2021 16:55:53 This file is digitally signed by PS to HMJ ANU MALHOTRA.

the Court of the Principal Judge, Family Courts, South Saket, and the proof having been testified by her, 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 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 Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:01.02.2021 16:55:53 This file is digitally signed by PS to HMJ ANU MALHOTRA.

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 Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:01.02.2021 16:55:53 This file is digitally signed by PS to HMJ ANU MALHOTRA.

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), of FIR No. 192/2018 PS Ambedkar Nagar registered under Sections 498A/406/34 of the Indian Penal Code, 1860, and all consequential proceedings emanating therefrom are thus quashed against the petitioners.

The petition is disposed of.

ANU MALHOTRA, J JANUARY 29, 2021/sv Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:01.02.2021 16:55:53 This file is digitally signed by PS to HMJ ANU MALHOTRA.

IN THE HIGH COURT OF DELHI: NEW DELHI MAHESH @ MAHESH THAKUR& ORS. Vs. STATE & ANR. 29.01.2021 CW-1 ASI PREETAM SINGH POLICE STATION AMBEDKAR NAGAR ON S.A. I am the Investigating Officer of FIR No. 192/2018 PS Ambedkar Nagar registered under Sections 498A/406/34 of the Indian Penal Code, 1860. I identify the petitioners No.1 to 5, namely, Mahesh Thakur, Balram, Kamlesh, Rahul and Preeti, present in the Court today and as being the accused in FIR No.192/2018, PS Ambedkar Nagar under Sections 498A/406/34 Indian Penal Code, 1860. Apart from the petitioners No.1 to 5, no other person/persons is/are arrayed as the accused in relation to the present FIR. I identify the respondent no. 2, Gargi Verma, present in the Court today, as being the complainant of the said FIR.

RO & AC  
29.01.2021

ANU MALHOTRA, J

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By:SUMIT GHAI

Signing  
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MALHOTRA.

IN THE HIGH COURT OF DELHI: NEW DELHI MAHESH @ MAHESH THAKUR & ORS. V. STATE & ANR. 29.01.2021 CW-2 GARGI VERMA D/O BHANU PRATAP VERMA R/O H. No.18/2, DDA FLATS, DAKSHINPURI, DR.AMBEDKAR NAGAR, NEW DELHI.

ON S.A. The settlement has been arrived at between me and the petitioner at the Councelling Cell, Family Courts, Saket, on 23.11.2019 and the same bears my signatures thereon which I have signed voluntarily of my own accord without any duress, pressure or coercion from any quarter and I undertake to abide by the terms thereof. As per the settlement a sum of Rs.2,25,000/- was to be paid to me by the petitioners of which a sum of Rs.70,000/- and Rs. 75,000/- have already been received by me during the course of the proceedings under Section 13 B(1) and 13 B(2) of the Hindu Marriage Act, 1955 and the balance sum of Rs.80,000/- is to be paid to me today by the petitioners in view of the said settlement which amount has been received by me today in the Court in the form of a Demand Draft bearing No. 967327 dated 18.12.2020 for a sum of Rs.80,000/- drawn on Canara Bank, Multan Nagar, in my favour and now there are 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 dated 5.12.2020 in HMA No.965/2020 of the Court of the Principal Judge, Family Courts, South Saket, New Delhi.

In view of the settlement arrived at between me and the petitioners all Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:01.02.2021 16:55:53 This file is digitally signed by PS to HMJ ANU MALHOTRA.

my claims against the petitioners have since been settled and thus I do not oppose the prayer made by the petitioners No.1 to 5 through the present petition seeking the quashing of the FIR No. 192/2018, Police Station Ambedkar Nagar, registered under Sections 498A/406/34 of the Indian Penal Code, 1860 nor do I want them to be punished in relation thereto. There is no child born of the wedlock between me and the petitioner No.1.I have so stated voluntarily of my own accord without any duress, pressure or coercion from any quarter.

I have done my Bachelors in Administration and I work as an HR Journalist. I have understood the implications of the statement made by me and I do not need to think again. I have made my statement voluntarily of my own accord without any duress, pressure or coercion from any quarter ANU MALHOTRA, J.

RO & AC 29.1.2021 Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:01.02.2021 16:55:53 This file is digitally signed by PS to HMJ ANU MALHOTRA.