

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **Crl.M.C.No.109/2007**

% **Date of decision : 23.07.2008**

Dr. Pankaj Sharma & Others Petitioners
Through: Mr.Kumar Kartikeya, Advocates.

Versus

State & others Respondents
Through : Mr. R.N. Vats, APP for the State.
Mr.Mohd.Akram, Advocate for
respondents 2 & 3.
Respondent No.2, present in
person

CORAM :-

* **HON'BLE MR. JUSTICE ANIL KUMAR**

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| 1. | Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

ANIL KUMAR, J.

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The petitioners have sought quashing of FIR No.317/2005 under Sections 342/323/498A/506 of IPC registered at Police Station Mandir Marg on the complaint of respondent No.3.

The learned counsel for the petitioners has contended that divorce proceedings were pending between the petitioner No.1 and respondent No.3 before the Additional District Judge where a settlement was arrived at between them pursuant to which they had decided to resolve all their differences and live together at E-139, Ashok Vihar,

Phase I, Delhi, which is the matrimonial home. The petitioner No.1 had also represented and ensured that he will look after the respondent No.3 and minor son, Bhavya. The respondent No.3 had also deposed that she will cooperate with the petitioner No.1 for getting FIR No.317/2005 under Sections 342/323/498A/506 of IPC registered at Police Station Mandir Marg quashed from the High Court.

The petitioner No.1 contends that pursuant to settlement arrived at between him and respondent No.3, FIR No.318/2005 registered at Police Station Mandir Marg have already been quashed. Learned counsel for petitioners, therefore, contends that since the respondent No.3 stated before the Additional District Judge in the divorce proceedings that the matter has been settled between her and petitioner No.1, Dr.Pankaj Sharma, and she will cooperate for getting the FIR No.317/2005 under Section 342/323/498A/506 of IPC quashed, the said FIR should be quashed.

The respondent Nos.2 and 3 are present. Respondent No.3 contended that pursuant to the compromise arrived at between her and her husband, petitioner No.1, she started living with petitioner No.1. It is also contended that earlier an amount was given by the petitioner No.1 to her during the proceedings for grant of bail and after she returned to matrimonial home, she was pressurized and maltreated and beaten by the petitioner No.1 for return of that amount. She also contended that she has been treated with cruelty by petitioners consequent to which she had to leave the matrimonial home again and

now she is living with her mother. In the circumstances, she contends that it will not be in the interest of justice if the FIR No.317/2005 under Section 342/323/498A/506 of IPC is quashed in the present facts and circumstances.

Petitioner No.1 is present and he denies the allegations made by the respondent No.3 about petitioner No.1 beating her.

Learned counsel for petitioners contends that once the statement has been given by the respondent No.3 that she will get the present FIR No.317/2005 quashed and that another FIR No.318/2005 registered at the instance of petitioner No.1 against the mother of the respondent No.3, respondent No.2, has already been quashed, respondent No.3 should not be allowed to resile from her statement before the matrimonial court and in the circumstances the said FIR No.317/2005 which was registered at her instance should be quashed.

This is not disputed that after the compromise arrived at between respondent No.3 and the petitioner No.1, they started living together. Respondent No.3 has also contended that on account of her ill-treatment after they started living together, another FIR No.450/2007 under Sections 323/341/354/34 registered at P.S. Ashok Vihar, has been registered against the petitioner No.1.

In the totality of facts and circumstances, it will not be in the interest of justice to quash the FIR No.317/2005 under Section 342/323/498A/506 of IPC and as far as quashing of FIR No.318/2005 which was registered at the instance of petitioner No.1 against his

mother-in-law, respondent No.2, is concerned, it shall be for the petitioner to take such steps, if available under law for revival of the said FIR. However, on the ground that FIR registered against respondent No.2, mother-in-law of the petitioner No.1 has been quashed, no right is crystallized in favour of the petitioners to get the FIR No.317/2005 under Section 342/323/498A/506 of IPC quashed in the facts and circumstances.

Therefore, in the totality of facts and circumstances and in the interest of justice, it will not be appropriate to quash the FIR No.317/2005 under Section 342/323/498A/506 of IPC. The petition in the facts and circumstances is without any merit and it is, therefore, dismissed.

July 23, 2008
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ANIL KUMAR, J.