

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

% *Judgment pronounced on: 26th May, 2015*

+ **Crl. M.C. No.4644/2014 & Crl. M.A. No.15851/2014 (for stay)**

KANISHK KAPOOR & ANR Petitioners
Through Mr. Aman Mehta, Adv.

versus

STATE & ANR Respondents
Through Mr.M.P.Singh, APP for the State
along with SI Satender Kumar, PS
Hauz Qazi, in person.
Mr.Jivesh Tiwari, Adv. for R-2
along with said respondent in
person.

**CORAM:
HON'BLE MR.JUSTICE MANMOHAN SINGH**

MANMOHAN SINGH, J.

1. The abovementioned petition has been filed by the petitioners, namely, Kanishk Kapoor and Smt.Kiran Kapoor against the respondents, i.e. the State and Ms.Swati Gupta (respondent No.2 herein). The petitioners are the husband and mother-in-law of respondent No.2. In the present petition, they have sought the prayer for quashing of FIR No.121/2013, under Sections 498-A/406/34 IPC, registered at P.S. Hauz Qazi, New Delhi.

2. The main contention of the learned counsel for the petitioners is that the trial Court has no jurisdiction to entertain and try the present

FIR registered on the basis of the complaint made by respondent No.2. Various judgments have been referred by the counsel. The matter was also discussed for settlement. Respondent No.2 has informed the Court that in case, the petitioners are ready to pay a sum of Rs.5 lac towards full and final settlement between the parties which will include dowry articles, dissolution of marriage by mutual consent as well as the maintenance. She has indicated that the said demand is not unreasonable, as her father had spent the said money for marriage and dowry articles which was taken by him on loan. She submits that her mother is suffering from cancer. As there is no chance for respondent No.2 to rehabilitate with the petitioner No.1, therefore, she wanted to dissolve all the disputes.

3. Learned counsel for the petitioners, upon instructions, has informed that the settlement as per the demand raised by respondent No.2 is not maintainable. At the maximum, the petitioners can pay Rs.2 lac as full and final settlement. He is stressing for quashing of the FIR.

4. The charge-sheet in the above said matter has been filed. The matter is at the stage of framing of charge. The petitioners have not disputed that the marriage between petitioner No.1 and respondent No.2 was taken place in Delhi. The following statement was made in the FIR:-

“.....(i) Register an FIR against Kanishk and his mother Mrs.Kiran Kapoor for demand of dowry, harassment, beating up, rowdy behaviour and cruelty. (ii) Recover all the STREE DHAN and other belongings of Swati Gupta

which were given by her father to her as per two lists attached herewith which are still under possession and control of Smt.Kiran Kapoor, mother of Kanishk. It is prayed accordingly.....The ASI himself conducted the investigation, during which the statements of the witnesses were recorded and after getting concrete evidence sufficient for arrest, necessary permission to arrest the husband of the complainant, who is the main accused, namely, Kanishk Kapoor son of Savtantar Kapoor, residing at the above said address was got from the Senior Officials. The accused party has returned the stridhan to the complainant in view of the orders of the Court and the accused Kanishk Kapoor had been granted anticipatory bail by the Court of Ms.Savita Rao, ASJ Court No.222, Tis Hazari, Delhi. The said accused Kanishk Kapoor was thereafter arrested in the present case and was released on bail. Kanishk Kapoor, the husband and Kiran Kapoor, the mother-in-law, of the complainant Swati Gupta used to cause beatings to the complainant and also raised demand for Car and cash amount as dowry. Due to the said demands, the complainant left her matrimonial home and she came to her parents' house. Still the accused Kanishk Kapoor and Kiran Kapoor continued their demands for Car and cash money from her family members. As per the investigation till date and the statements of the witnesses as well as facts and circumstances of the case, a case is made out against the accused Kanishk Kapoor and Kiran Kumar, the husband and mother-in-law of the complainant Swati Gupta, for the purpose of submitting the challan under Sections 498A/406/34 IPC. Thus, the present challan is submitted against the accused Kanishk Kapoor, husband (with arrest) and Smt.Kiran Kapoor, mother-in-law (without arrest) before the Court. The Court may take cognizance of the matter and initiate proceedings after summoning the witnesses through summons as well as the accused through notice.”

5. In view of the said averments, I am not inclined to quash the FIR in question at this stage in the present petition. However, the petitioners are at liberty to raise the said pleas and argue the issues before the trial Court at the time of arguments on framing of charge.

6. The present petition is accordingly dismissed. Pending application also stands disposed of.

(MANMOHAN SINGH)
JUDGE

MAY 26, 2015