

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

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Date of Decision: 27th September, 2017

+ 1. CRL.M.C. 2297/2017

PRAMOD KUMAR BAJAJ

..... Petitioner

Through: Petitioner in person.

versus

THE STATE & ANR

..... Respondents

Through: Mr.Hirein Sharma, APP for State

+ 2. CRL.M.C. 2298/2017 & CRL.M.A.15628-15629/2017

PRAMOD KUMAR BAJAJ & ORS.

..... Petitioner

Through: Petitioner No.1 in person.

versus

THE STATE & ANR.

..... Respondents

Through: Mr.Hirein Sharma, APP for State
Inspector Seema Yadav, PS-Prashant
Vihar

+ 3. CRL.M.C. 5371/2014

RAKHEE GUPTA

..... Petitioner

Through: Petitioner in person.

versus

STATE NCT OF DELHI & ANR

..... Respondents

Through: Mr.Hirein Sharma, APP for State

+ 4. CRL.M.C. 5372/2014

RAKHEE GUPTA

..... Petitioner

Through: Petitioner in person

versus

STATE NCT OF DELHI & ANR

..... Respondents

Through: Mr.Hirein Sharma, APP for State

- + 5. CRL.M.C. 137/2013
B.C.GUPTA & ANR Petitioners
Through: Ms.Rakhee Gupta, daughter of the
petitioner No.1 in person.
versus
PRAMOD BAJAJ & ORS Respondents
Through: Mr.Hirein Sharma, APP for State
- + 6. CRL.M.C. 2948/2013 & CRL.M.A.17220/2013
OPTIMYSTIX ENTERTAINMENT
INDIA P. LTD. & ORS. Petitioners
Through: Mr.Sudhir Nandraj Jog, Sr. Adv. with
Mr.Mithilesh Kumar Pandey, Advs.
versus
PRAMOD BAJAJ & ORS. Respondents
Through: Mr.Hirein Sharma, APP for State
- + 7. CRL.M.C. 1298/2013 & CRL.M.A.4032/2013, 10235/2017
RAKHEE GUPTA Petitioner
Through: Mr.R.N.Vats, Adv. with Ms.Madhu
Saini, Mr.Sanjeev Kumar Anand and
Mr.Sumit Garg, Advs.
Petitioner in person.
versus
PRAMOD BAJAJ & ORS. Respondents
Through: Mr.Hirein Sharma, APP for State
- + 8. CRL.M.C. 3577/2013 & CRL.M.A.13046/2013 & 16743/2013
N S BUNDELA Petitioner
Through: Mr.Ravin Rao, Adv. with
Mr.R.N.Vats, Ms.Madhu Saini,
Mr.Sanjeev Kumar Anand and
Mr.Sumit Garg, Advs.
versus
STATE & ANR Respondents
Through: Mr.Hirein Sharma, APP for State

- + 9. CRL.M.C. 4660/2013 & CRL.M.A.16742-16743/2013
RISHI PAL Petitioner
Through: Mr.Ravin Rao, Adv. with
Mr.R.N.Vats, Adv.
versus
STATE & ANR. Respondents
Through: Mr.Hirein Sharma, APP for State
- + 10. CRL.M.C. 4663/2013 & CRL.M.A.16752-16753/2013
KRISHAN PAL Petitioner
Through: Mr.Ravin Rao, Adv. with
Mr.R.N.Vats, Adv.
versus
STATE & ANR. Respondents
Through: Mr.Hirein Sharma, APP for State
- + 11. CRL.M.C. 4664/2013 & CRL.M.A.16755-16756/2013
SUDESH DAHIYA Petitioner
Through: Mr.Ravin Rao, Adv. with
Mr.R.N.Vats, Adv.
versus
STATE & ANR. Respondents
Through: Mr.Hirein Sharma, APP for State

CORAM:
HON'BLE MR. JUSTICE I.S.MEHTA

I.S. MEHTA, J.

1. Instant petitions are arising out of the matrimonial discord between Shri Pramod Kumar Bajaj and Ms.Rakhee Gupta.
2. The disputes and differences between the parties resulted into filing of many cases/ proceedings pending in Courts including the instant petitions, details of the same are given below:-

- a. CRL.M.C. 2297/2017 is filed by Shri Pramod Kumar Bajaj seeking quashing of order dated 24.02.2014 passed in CC No.31/1/13 by learned Metropolitan Magistrate, Rohini Courts Delhi whereby the application under Section 156 (3) Cr.P.C filed by Ms.Rakhee Gupta was allowed and subsequently FIR No.2017/2014 was registered at Police Station-Prashant Vihar.
- b. CRL.M.C. 2298/2017 is filed by Shri Pramod Kumar Bajaj for quashing of FIR No.33/2009, under Sections 406/420/494/498-A/506/323/120-B IPC, registered at Police Station-Bharat Nagar.
- c. CRL.M.C. 5371/2014&CRL.M.C. 5372/2014 are filed by Ms.Rakhee Gupta for setting aside the order dated 10.07.2014 passed by learned Special Judge (PC Act), CBI-111, Rohini Courts, Delhi in Criminal Revision No.29/2014 whereby Shri Pramod Kumar Bajaj was exempted from his personal appearance in the matter pending before the Trial Court subject to the certain conditions.
- d. CRL.M.C. 137/2013 is filed by Sh.B.C.Gupta (father of Ms.Rakhee Gupta) for quashing the complaint case No.13/1/2012 pending the in the court of Metropolitan Magistrate, Rohini Courts, Delhi.
- e. CRL.M.C. 2948/2013 is filed by M/s.Optimystix Entertainment India Pvt. Ltd. & Ors. seeking quashing of complaint case No.13/1/2012 pending in the court of Metropolitan Magistrate, Rohini Courts, Delhi and also for

quashing of order dated 19.02.2011 passed by ACJM, Lucknow in complaint No.331/2011 whereby the petitioners are summoned for their trial as accused for the offence punishable under Section 500 IPC.

- f. CRL.M.C. 1298/2013 is filed by Ms.Rakhee Gupta for quashing the complaint case No.1/1/2013 pending in the court of Metropolitan Magistrate, Rohini Courts, Delhi.
- g. CRL.M.C. 3577/2013 is filed by Mr.N.S.Bundela, I.P.S seeking quashing of impugned order dated 19.02.2011 passed by ACJM, Lucknow in complaint No.331/2011 and the subsequent proceedings in the said case bearing No.13/1/2012 pending in the court of Metropolitan Magistrate, Rohini Courts, Delhi.
- h. CRL.M.C. 4660/2013 is filed by Mr.Rishi Pal seeking quashing of impugned order dated 21.10.2010 passed by the court of learned Additional Chief Judicial Magistrate-V, Lucknow in Complaint Case No.3370/2010 and the subsequent proceedings in the new Complaint Case No.01/01/2013 pending in the court of Metropolitan Magistrate, Rohini Courts, Delhi.
- i. CRL.M.C. 4663/2013 is filed by Mr.Krishan Pal seeking quashing of impugned order dated 21.10.2010 passed by the court of learned Additional Chief Judicial Magistrate-V, Lucknow in Complaint Case No.3370/2010 and the subsequent proceedings in the new Complaint Case

No.01/01/2013 pending in the court of Metropolitan Magistrate, Rohini Courts, Delhi.

- j. CRL.M.C. 4664/2013 is filed by Ms.Sudesh Dahiya Pal seeking quashing of impugned order dated 21.10.2010 passed by the court of learned Additional Chief Judicial Magistrate-V, Lucknow in Complaint Case No.3370/2010 and the subsequent proceedings in the new Complaint Case No.01/01/2013 pending in the court of Metropolitan Magistrate, Rohini Courts, Delhi.

3. Briefly stating, the facts relevant for the disposal of the present petitions are that on the complaint of Ms.Rakhee Gupta, FIR No.33/2009, under Sections 406/420/494/498-A/506/323/120-B IPC was registered at Police Station-Bharat Nagar. It is alleged in the FIR that Ms.Rakhee Gupta was approached by Shri Pramod Kumar Bajaj through his profile on an internet matrimonial website and to obtain her consent, Shri Pramod Kumar Bajaj misrepresented his date of birth and marital status. It is further alleged that Shri Pramod Kumar Bajaj kept on calling Ms.Rakhee Gupta on her mobile and through e-mail and succeeded in getting her consent for marriage and after negotiations, Shri Pramod Kumar Bajaj got married with Ms.Rakhee Gupta on 28.12.2008 according to Hindu Rites and Ceremonies at Delhi wherein heavy gifts and cash were given to the bridegroom by the family and relatives of the bride. It is also alleged in the FIR that after the marriage, Ms.Rakhee Gupta was being harassed by Shri Pramod Kumar Bajaj and his family members. It is further alleged that Shri Pramod Kumar Bajaj had more wives and children and when Ms.Rakhee Gupta raised the

issue about the same, she was manhandled and was thrown out from the house after which she returned to her parents house at Delhi and she collected more information about the antecedents of Shri Pramod Kumar Bajaj and it came to her knowledge that Shri Pramod Kumar Bajaj had ruined the lives of number of innocent girls by marrying them and making them to leave his house or by throwing them out of this house. After registration of the FIR, investigation was conducted and Shri Pramod Kumar Bajaj was arrested on 16.12.2009 and then was released on bail by the orders of learned District Judge, Rohini on 04.01.2010.

4. When Shri Pramod Kumar Bajaj was arrested on 16.12.2009, a press release was issued on 18.12.2009 by DCP/North-West District Sh. N.S.Bundela in an official capacity in connection with case FIR No.33/2009, PS-Bharat Nagar, Delhi. The said press release was based on facts which came to light during investigation and as per brief facts of the allegations made by the complainant Ms.Rakhee Gupta of case FIR No.33/2009, PS-Bharat Nagar, Delhi. The said press release was issued as a preventive measure in public interest as the matrimonial website Jeevansathi.com is a public matrimonial website where the accused Shri Pramod Kumar Bajaj had misrepresented his marital status and age that could misguide other innocent girls also. The press release was issued as per Standing Order-7/85 dated 27.03.1985, Commissioner of Police, Head Quarter and Circular No.5669-5869/C&T-AC-I, dated Delhi, 27.03.1985 as a preventive action.

5. The disputes and differences between the parties resulted into filing of several cases/proceedings by them against each other and also their family members which are pending in different Courts/ forums.

6. Ms.Rakhee Gupta filed MAT.APP.(F.C.) 148/2014 before the Division Bench of this Court assailing the order dated 25th April, 2013 passed by the Family Court-II in HMA No.125/2010 rejecting her application under Section 24 of the Hindu Marriage Act. In MAT.APP.(F.C.) 148/2014 the directions given to the parties vide order dated 19.01.2016 is reproduced as under:

“10. However, it is an admitted position that the appellant is without any source of livelihood. Therefore, without prejudice to the respective rights and contentions of both the parties, purely as an interim measure, the respondent is directed to make a payment of Rs.20,000/- per month to the appellant as maintenance with effect from 01.01.2016. The said amount shall be paid by the respondent to the appellant on or before 7th of each English calendar month. In addition, the respondent shall pay a sum of Rs.50,000/- to the appellant towards litigation expenses. The payment of aforesaid amounts shall be forthwith transmitted by the respondent by RTGS mode of transfer in the S/B Account of the appellant bearing Account No.0387101033945, IFSC Code: CNRB0000387, MICR Code: 110015035 with Canara Bank, Ashok Vihar Branch, Delhi. 11.

11. The amounts awarded towards maintenance for January, 2016 and the litigation expenses shall be paid by the respondent to the appellant within one week from today. In case, the amount, as directed above, is not tendered by the respondent to the appellant within the stipulated time period, a direction is issued to the Central Board of Direct Taxes to deduct the said amount from the salary of the respondent. At this stage, when we were so directing, the respondent submits that he shall voluntarily make payment to the appellant, as directed by this Court, inasmuch as he would face grave humiliation if this

order is communicated to his employer. We accept the statement. The direction to the Central Board of Direct Taxes shall be kept in abeyance to be revived if the respondent does not abide with his statement.”

7. Vide order dated 28.04.2016 passed in MAT.APP.(F.C.) 148/2014, 39/2016 & 34/2016, with the consent of both the parties, it was directed that the parties shall appear before Ms.Veena Ralli and Mr.Rajiv Aggarwal, Advocates and Mediators at SAMADHAN – the Delhi High Court Mediation and Conciliation Centre to explore the possibility of settlement. The matter was settled between the parties before the Delhi High Court Mediation and Conciliation Centre on 18.06.2016. The original Settlement Agreement dated 18th June, 2016 between the parties is placed in MAT. APP.(F.C.) 39/2016. The appellant Ms.Rakhee Gupta was shown the original Settlement Agreement and she identified her signatures at Points X-1 to X-11 while the respondent Shri Pramod Kumar Bajaj identified his signatures at Points Y-1 to Y-11 on each page of the Settlement Agreement. The Settlement Agreement was exhibited as (Exh. C-1). Both the parties have given undertakings in the Settlement Agreement and have also given undertakings to this Court that they shall strictly abide by all the terms and conditions of the settlement agreement (Exh. C-1). The settlement agreement (Exh. C-1) is reproduced as under:-

“SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT is entered into on 18.08.2016

BETWEEN

Smt. Rakhee Gupta D/o Shri B.C. Gupta R/o House No. A-315, SFS Flats, Ashok Vihar Phase IV, New Delhi-110052 (hereinafter referred to as the First Party) (which expression shall mean to include the

party, her legal heirs, successors, legal representatives, administrators, executors, nominees(s) and assignees as well).

AND

Capt. Pramod Kumar Bajaj S/o Shri Prabhu Dayal Bajaj, R/o 222, M.G. Marg, P.S.Cantt, Lucknow, U.P./resident of 3/237 Vinay Khand Gomti Nagar, Lucknow (hereinafter referred to as the Second Party) (which expression shall mean to include the party, her legal heirs, successors, legal representatives, administrators, executors, nominee(s) and assignees as well).

The parties are individually referred to as “Party” and collectively as “Parties”.

WHEREAS the First and the Second parties got married on 28.12.2008 according to Hindu Rites and Ceremonies at Shalimar Bagh, Delh. No child is born form the wedlock of the parties. Due to disputes and differences, the parties could not live together and are now living separately since 24.01.2009.

AND WHEREAS disputes and differences between the parties resulted into filing of the many cases/ proceedings pending in Courts/ forums by them against each other and also their family members, details whereof are given hereinbelow:-

- i. Case No. 511/2014 titled as RAKhee Gupta Vs. Pramod, pending before the Principal Judge, Family Court, Rohini.*
- ii. Case No. 512/2014 title as Pramod Bajaj Vs. Rakhee Pramod Bajaj, pending before the Principal Judge, Family Court, Rohini.*
- iii. Case No. 159/2 of 2010 titled as State Vs. Pramod Bajaj, pending before this Court of Ms. Sushil Bala Dagar, MM (Women Court), Rohini.*
- iv. Case No.3/2016 titled as State Vs. Pramod Bajaj & Ors., pending before the Court of Shri. VK Rai, ASJ, Rohini.*
- v. Case No.20/1/2014 titled as Pramod Bajaj Vs. RAKhee Gupta, pending before the Court of ACMM/MM, Rohini.*
- vi. Case entitled as Pramod Bajaj Vs. M/s. Optimystix Ent. (P) Ltd. & Ors., pending before the Court of ACMM/MM, Rohini.*
- vii. Case No.31/1/2013 titled as Rakhee Gupta Vs. Pramod Bajaj, pending before the Court of ACMM/MM, Rohini*

- viii. *Case No.36/2014 titled as State Vs. Pramod Bajaj, pending before the Court of ACMM/MM, Rohini.*
- ix. *FIR No. 207/2014 titled as State Vs. Pramod Bajaj, registered with PS Maurya Enclave.*
- x. *Case No. 1/1/2013 title as Pramod Bajaj Vs. Rakhee Gupta pending before the Court of ACMM/MM, Rohini, Court.*
- xi. *Mat.App.(F.C.) Nos. 14/2014, 34/2016 and 39/2016 titled as Rakhee Gupta Vs. Pramod Bajaj, pending before the Delhi High Court.*
- xii. *Crl.M.C. No. 5372/2014 titled as Rakhee Gupta Vs. State NCT of Delhi & Anr., pending before the Delhi High Court.*
- xiii. *Crl.M.C. No. 5371/2014 titled as Rakhee Gupta Vs. State NCT of Delhi & Anr., pending before the Delhi High Court.*
- xiv. *Crl.M.C. No. 1298/2013 titled as Rakhee Gupta Vs. Pramod Bajaj & Ors. Pending before the Delhi High Court.*
- xv. *Crl.M.C. No. 137/2013 titled as B.C. Gupta Vs. Pramod Bajaj & Ors. Pending before the Delhi High Court.*
- xvi. *I.A. filed by Ms. Rakhee Gupta for recall of orders passed by the Supreme Court in SLP No. 3045/2014 in the matter of Renu Vs. Pramod Bajaj.*
- xvii. *FIR No. 631/2010 at P.S. Hazratganj, Lucknow.*
- xviii. *Complaint Case No. 460/2010 entitled as Pramod Bajaj Vs. B.C. Gupta & Ors.*

AND WHEREAS the first has filed Mat.App.(R.C.) Nos. 148/2016, 39/2016 and 34/2016 against the Second Party before the Hon'ble High Court of Delhi.

AND WHEREAS the matters were referred to Samadhan (Delhi High Court Mediation and Concilliation Centre) vide order dated 28.04.2016 passed by the Division Bench comprising of Hon'ble Ms. Justice Gita Mittal and Hon'ble Mr. Justice I.S. Mehta appointing Ms. Veena Ralli and Mr. Rajiv Agarwal, Advocate to act as mediators in the above matter and the parties agreed to the said appointment.

AND WHEREAS during the process of mediation, the parties with the assistance of the mediator, have voluntarily resolved their disputes and differences on the following terms and conditions:-

1. *The First Party has agreed to withdrawn all allegations raised by her against the Second Party and/or against his family members in any of*

the proceedings detailed herein above. Similarly, the Second Party has agreed to withdraw all allegations raised by him against the First Party and/or her family members and Mr. Vasdev Bahl in any of the proceedings detailed herein above.

- 2. The First and the Second Parties agree to get their marriage dissolved by obtaining a decree of divorce by filing joint petition(s) under Section 13-B (1) and (2) of the Hindu Marriage Act.*
- 3. The First and the Second parties agree to file first motion petition under Section 13-B (1) of the Hindu Marriage Act on or before 10.07.2016 and they further agree to file the second joint petition under Section 13-B(2) of the Hindu Marriage Act within 15 days from the expiry of the statutory period of six months from the dated of institution of the first motion petition before the competent Family Court. The parties agreed to approach to Hon'ble Court for wavier of six month statutory period.*
- 4. The Second Party has agreed to get one flat consisting of one room, one drawing room, kitchen, toiled and balcony bearing No. number 592, 2nd Floor B Block, Weavers Colony, Ashok Vihar, Phase IV, Delhi hereinafter referred to as the "said property", in the name of the First Party within one month from the date of the signing of the present settlement agreement on Power of Attorney/Agreement to Sell/Sale Deed (hereinafter referred to as the Said Property) which such property shall be purchased by Sh. Vijay Kumar Bajaj, identified and selected by the First Party. The said property has been agreed to be purchased by the Second Party in the name of the First Party towards all the claims of the First Party be it towards maintenance (Past, Present and Future) permanent , alimony, stridhan, articles etc., except the maintenance amount of Rs. 20,000/- (Rupees Twenty Thousand only) till the quashing of FIR Nos. 33/2009 and 207/2014, against the Second Party and the First Party has agreed to accept the above said property in her name towards all the claims of maintenance (Past, Present and Future), permanent, alimony, stridhan, articles etc., except the maintenance amount of Rs. 20,000/- (Rupees Twenty Thousand only) till the quashing of FIR Nos. 33/2009 and 207/2014, arising out of the matrimonial discord between the First and the Second Party. Since the said property has been selected by the First Party, on the insistence of the builder to close the deal at the earliest i.e. maximum within 30 days, the Second has already paid*

the earnest money to the builder for the purchase of the said property in the name of the First Party.

- 5. The Second Party has assured the First Party that the said property is free from all types of encumbrances and has got a free title which has been undertaken to be transferred in the name of the First Party by way of power of attorney / agreement to sell / sale deed to be executed by the builder / owner of the said property in favour of the First Party. The Second Party further indemnifies the First Party in case of any interest / right or title claimed by any Third Party in respect of the said property. The Second Party agrees and accepts that the First Party will become the absolute owner of the abovesaid property which shall be free from all encumbrances in terms of the present Settlement Agreement.*
- 6. The parties agree that on sale of the said property, the documents executed by the builder / owner in favour of the First Party shall be kept with the Registrar General of the Hon'ble High Court of Delhi within 15 days thereafter and simultaneous thereto a copy of the same shall be delivered to the First Party. The First Party shall be entitled to get such original documents from the Hon'ble Court after the quashing of the FIR Nos. 33/2009 and FIR 207/2014 in terms of the present Settlement Agreement.*
- 7. The parties agree that on execution of the sale documents by the seller of the above said property bearing No. 592, 2nd Floor B, Weavers Colony, Ashok Vihar, Phase IV Delhi in favour of the First Party, the possession shall be handed over by the seller to the Second Party and the Second Party shall hand over the possession of the said property to the First Party on the date the petitions for quashing of the above two FIRs are disposed off, by handing over keys of the same to the First Party. It is agreed between the parties that the First Party shall not claim possession of the said property, purchased in terms of the present Settlement Agreement till she appears before the Hon'ble Court during disposal of quashing petition, after grant of divorce decree by the concerned Family Court.*
- 8. The parties agree that the petition for quashing of the FIR No. 33/2009 and FIR No.207/2014 shall be signed and filed by the parties simultaneous to the signing and filing of the second joint motion petition for divorce by mutual consent. The Second Party states that charge sheet has been filed in FIR No/ 33/2009. It is agreed by the*

First Party that she shall extend her full co-operation for quashing of the above said FIR and/or charge sheet by moving an appropriate application and/or affidavit in support thereof and/or to make statement before the Hon'ble Court, if so required. The First Party also agrees and undertakes to be present before the Hon'ble Court on the date the said quashing petition is listed before the Hon'ble Court. In case of her non-cooperation in filing of the required application and/or affidavit in support of quashing of the FIR and for filing of the Second motion Petition for divorce by mutual consent and/or non-appearance before court during quashing petition and/or for second motion petition for divorce by mutual consent, it shall not be obligatory on the part of the Second Party to hand over the physical, vacant and peaceful possession of the said property to the First Party. In that situation the First Party shall not be entitled to withdraw the original title document from the Hon'ble Court of Delhi.

- 9. The Second Party assures that no criminal case is pending at Lucknow against the First Party based on registration of an FIR. It is agreed by the First Party that she shall inform the Second Party about the details of the criminal case pending at Lucknow within two months from the date of deposit of title papers with the Hon'ble High Court of Delhi and the Second Party shall take requisite steps for quashing of the said FIR and/or for withdrawal of the same under intimation to the First Party. It is agreed by the First Party that on getting intimation from the Second Party, she shall extend her cooperation for signing the petition/application/affidavits and shall also be present on the date the said petition/application is listed for hearing/disposal.*
- 10. The First Party agrees that the Second Party shall pay maintenance charges of Rs. 20,000/- (Rupees Twenty Thousand only) payable by the Second Party to the First Party in terms of court order only upto the quashing of abovesaid FIRs and the First Party will not claim any amount on account of maintenance for herself from the Second Party in future nor will she file any such claim against the Second Party in any court of law.*
- 11. It is further agreed between the parties that on handing over possession of the said property and on handing over of title documents of the said property by the Hon'ble Court to the First Party, in terms of clauses mentioned hereinabove, all the claims of the First Party towards her maintenance (Past, Present and Future), permanent*

alimony and stridhan, jewellery articles, etc., against the Second Party and/or his family members, arising out of the marital discord between the parties, shall stand satisfied and she shall be left with no claim whatsoever against the Second Party and/or his family members.

12. It is agreed between the parties that after the grant of first motion petition for divorce and after deposit of the title papers by the Second Party with the Registrar General of the Hon'ble High Court of Delhi in terms of the present Settlement Agreement, the parties shall withdrawn all their cases/complaints/RTIs against each other and also against their respective family members and Mr. Vasdev Bahl, in consultation with each other, keeping in mind their convenience for signing and being present before the concerned Courts for withdrawal of the below mentioned cases:-

- i. Case No. 511/2014 titled as Rakhee Gupta Vs. Pramod Bajaj, pending before the Principal Judge, Family Court, Rohini.*
- ii. Case No. 512/2014 titled as Pramod Bajaj Vs. Rakhee Pramod Baja, pending before the Principal Judge, Family Court, Rohini.*
- iii. Case No. 159/2 of 2010 titled as State Vs. Pramod Bajaj, pending before the Court of Ms. Sushil Bala Dagar, MM (Women Court), Rohini.*
- iv. Case No.3/2016 titled as State Vs. Pramod Bajaj & Ors., pending before the Court of Shri. VK Rai, ASJ, Rohini.*
- v. Case No.20/1/2014 titled as Pramod Bajaj Vs. RAKhee Gupta, pending before the Court of ACMM/MM, Rohini.*
- vi. Case entitled as Pramod Bajaj Vs. M/s. Optimystix Ent. (P) Ltd. & Ors., pending before the Court of ACMM/MM, Rohini.*
- vii. Case No.31/1/2013 titled as Rakhee Gupta Vs. Pramod Bajaj, pending before the Court of ACMM/MM, Rohini*
- viii. Case No.36/2014 titled as State Vs. Pramod Bajaj, pending before the Court of ACMM/MM, Rohini.*
- ix. Case No. 1/1/2013 title as Pramod Bajaj Vs. Rakhee Gupta pending before the Court of ACMM/MM, Rohini, Court, Delhi. This matter shall be withdrawn against the family members of the First Party and the Second Party shall be free to continue with the matter.*
- x. Crl.M.C. No. 5372/2014 titled as Rakhee Gupta Vs. State NCT of Delhi & Anr., pending before the Delhi High Court.*

- xi. *Crl.M.C. No. 5371/2014 titled as Rakhee Gupta Vs. State NCT of Delhi & Anr., pending before the Delhi High Court.*
- xii. *Crl.M.C. No. 1298/2013 titled as Rakhee Gupta Vs. Pramod Bajaj & Ors. Pending before the Delhi High Court.*
- xiii. *Crl.M.C. No. 137/2013 titled as B.C. Gupta Vs. Pramod Bajaj & Ors. Pending before the Delhi High Court. This matter shall be withdrawn against the family members of the First Party and / or her family members and the Second Party shall be free to continue the same against other parties.*
- xiv. *FIR No. 207/2014 titled as State Vs. Pramod Bajaj, registered with PS Maurya Enclave.*
- xv. *I.A. filed by Ms. Rakhee Gupta for recall of orders passed by the Supreme Court in SLP No. 3045/2014 in the matter of Renu Vs. Pramod Bajaj.*
- 12. Both the parties undertake and agree not to initiate any further proceedings, civil or criminal, complaints/RTI applications against each other and / or their respective family members based on their present matrimonial discord.*
- 13. Both the parties undertake that in case any other case/proceedings/complaint, civil or criminal, complaint/RTI applications is/are found to have been filed by any party then the same shall be deemed to have been settled in terms of the present Settlement Agreement and the same shall be withdrawn before the filing of the second joint petition for divorce by mutual consent.*
- 14. Both the parties agree to remain bound in spirit and words with the terms and conditions as mentioned in this settlement.*
- 15. Both the parties agree and undertake not to speak ill about each other, in the society, amongst their families, friends and relatives and further agree not to put anything on social media.*
- 16. Both the parties agree that in case the First Party does not abide by the terms of this Settlement Agreement then the First Party shall not be entitled to the possession of the said property. Similarly, if the Second Party does not abide by the terms of this Settlement Agreement, then the First Party shall be entitled to get the possession of the said property through the process of law.*
- 17. By signing this Agreement the parties hereto state that they have no further claims or demands against each other and all their disputes*

and differences have amicably been settled through the process of Mediation.

18. The parties hereto confirm and declare that they have voluntarily and of their own free will arrived at this Settlement Agreement in the presence of the Mediators.

19. The parties undertake before the Hon'ble Court to abide by the terms and conditions set out in the agreement and not to dispute the same hereinafter in future."

8. Pursuant to the settlement agreement dated 18th June, 2016, the marriage between the parties stands dissolved by a decree of divorce by mutual consent.

9. To give effect to the mediation settlement agreement (Exh. C-1), the parties have made the following statement before this court on 18.09.2017 which is reproduced as under:-

"Statement of Shri Pramod Kumar Bajaj, son of Late Shri PD Bajaj, resident of 3/237 Vinay Khand Lucknow.

I state that I have settled the matter with the respondent No.2/complainant Ms.Rakhee Gupta before the Delhi High Court Mediation and Conciliation Centre on 18th June, 2016 and the terms of settlement has been acted upon between the parties. The following cases are to be quashed:

1. The FIR No.207/14 registered at Police Station-Prashant Vihar requires to be quashed in CRL.M.C. 2297/2017.

2. The FIR No.33/09, under Sections 406/420/494/498-A/506/323/120-B IPC registered at Police Station-Bharat Nagar requires to be quashed in CRL.M.C. 2298/2017.

3. In pursuance to the settlement, the respondent Ms.Rakhee Gupta to withdraw the complaint in CRL.M.C. 5371/2014 & CRL.M.C.5372/2014.

4. In pursuance to the settlement, the complaint case No.13/1/2012 to be quashed in CRL.M.C. 137/2013.

5. In pursuance to the settlement, the complaint case No.1/1/2013 to be quashed in CRL.M.C. 1298/2013.

6. I have no objection if the criminal complaint case and the subsequent proceedings is quashed in respect to Mr.N.S.Bundela in CRL.M.C.3577/2013.

7. I have no objection if the criminal complaint case and the subsequent proceedings is quashed in respect to Mr.Rishi Pal in CRL.M.C.4660/2013.

8. I have no objection if the criminal complaint case and the subsequent proceedings is quashed in respect to Mr.Krishan Pal in CRL.M.C.4663/2013.

9. I have no objection if the criminal complaint case and the subsequent proceedings is quashed in respect to Mr.Sudesh Dahiya in CRL.M.C.4664/2013.

10. However, I do not wish to withdraw the CRL.M.C. 2948/2013 titled as Optimystix Entertainment India P. Ltd. & Ors. V/S. Pramod Bajaj & Ors.

Statement of Ms.Rakhee Gupta, daughter of Shri BC Gupta, resident of A-315, SFS, Phase-IV, Ashok Vihar, New Delhi

I have heard the statement made by the petitioner Shri Pramod Kumar Bajaj. I have no objection to in view of the terms of settlement arrived between the parties on 18th June, 2016 before the Delhi High Court Mediation and Conciliation Centre.”

10. It is pertinent to mention herein that both the parties have given undertakings in the Settlement Agreement dated 18.06.2016 and have also given undertakings before the Division Bench of this Court that they shall strictly abide by all the terms and conditions of the settlement agreement (Exh. C-1). As per Clause 12 of the settlement agreement, it is agreed between the parties that they shall withdraw all their cases/complaints/RTIs against each other and also against their respective family members. Therefore, in view of the statements given before this Court by Shri Pramod Kumar Bajaj and Ms.Rakhee Gupta on 18.09.2017; the following petitions are disposed of in following manner.

- a. In CRL.M.C. 2297/2017, the FIR No.2017/2014, registered at Police Station-Prashant Vihar and all proceedings arising of the same are hereby quashed.
- b. In CRL.M.C. 2298/2017, the FIR No.33/2009, under Sections 406/420/494/498-A/506/323/120-B IPC, registered at Police Station-Bharat Nagar and all proceedings arising of the same are hereby quashed.
- c. CRL.M.C. 5371/2014 & CRL.M.C. 5372/2014 is dismissed as withdrawn.
- d. In CRL.M.C. 137/2013, the complaint case No.13/1/2012 pending in the court of Metropolitan Magistrate, Rohini Courts, Delhi is quashed.
- e. In CRL.M.C. 1298/2013, the complaint case No.1/1/2013 pending in the court of Metropolitan Magistrate, Rohini Courts, Delhi is quashed.

- f. In CRL.M.C. 3577/2013, the impugned order dated 19.02.2011 passed by ACJM, Lucknow in complaint No.331/2011 and the subsequent proceedings in the said case bearing No.13/1/2012 pending in the court of Metropolitan Magistrate, Rohini Courts, Delhi are quashed in respect to the petitioner Mr.N.S.Bundela.
- g. In CRL.M.C. 4660/2013, the impugned order dated 21.10.2010 passed by the court of learned Additional Chief Judicial Magistrate-V, Lucknow in Complaint Case No.3370/2010 and the subsequent proceedings in the new Compliant Case No.01/01/2013 pending in the court of Metropolitan Magistrate, Rohini Courts, Delhi are quashed in respect to Mr.Rishi Pal.
- h. In CRL.M.C. 4663/2013, the impugned order dated 21.10.2010 passed by the court of learned Additional Chief Judicial Magistrate-V, Lucknow in Complaint Case No.3370/2010 and the subsequent proceedings in the case in new Compliant Case No.01/01/2013 pending in the court of Metropolitan Magistrate, Rohini Courts, Delhi are quashed in respect to Mr.Krishan Pal.
- i. In CRL.M.C. 4664/2013, the impugned order dated 21.10.2010 passed by the court of learned Additional Chief Judicial Magistrate-V, Lucknow in Complaint Case No.3370/2010 and the subsequent proceedings in the new Compliant Case No.01/01/2013 pending in the court of

Metropolitan Magistrate, Rohini Courts, Delhi are quashed in respect to Ms.Sudesh Dahiya Pal.

11. Shri Pramod Kumar Bajaj in his statement recorded on 18.09.2017 has stated that he does not want to withdraw the petition CRL.M.C. 2948/2013 titled as *Optimystix Entertainment India P. Ltd. & Ors. vs. Pramod Bajaj & Ors.*

12. Now, only the petition CRL.M.C. 2948/2013 remains to be disposed of. The instant petition, i.e. CRL.M.C. 2948/2013, is filed by the petitioners, i.e. (1) M/s.Optimystix Entertainment India Pvt. Ltd., (2) Shri Vipul D. Shah (Managing Director), (3) Shri Sanjiv Sharma (Chairman), (4) Shri Prashant Sardesai (Head of News Media), (5) Ms. Shakshi Tanwar and (6) Shri Anoop Soni, whereby the petitioners are seeking quashing of the complaint case No.13/1/2012 pending in the court of Metropolitan Magistrate, Rohini Courts, Delhi. By way of said petition, the petitioners also seek quashing of order dated 19.02.2011 passed by ACJM, Lucknow in complaint No.331/2011 whereby the petitioners are summoned for their trial as accused persons for the offence punishable under Section 500 IPC.

13. The brief facts of case complaint No.331/2011 are that the respondent No.2/complainant Shri Pramod Kumar Bajaj had filed a complaint against the petitioners on the ground that they have defamed him in the society. In this connection, the respondent No.2/complainant got his own statements recorded under Section 200 Cr.P.C. The respondent No.2/complainant has stated that on 08.02.2010 at 8:30 p.m. and again at 11:00 a.m. next morning, Sony Television Channel telecasted a programme titled as “Crime Patrol” which was based on him, without taking his prior permission. It is further

stated by the respondent No.2/complainant that without giving an opportunity to him to place his version, the telecast of the aforesaid TV programme while acting ex-parte has resulted in severally hurting the reputation and prestige of the respondent No.2/complainant. Thereafter, vide impugned order dated 19.02.2011 passed by ACJM, Lucknow in complaint No.331/2011 the petitioners herein in CRL.M.C. 2948/2013 were summoned for their trial as accused persons for the offence punishable under Section 500 IPC.

14. I have heard the parties in person.

15. So far as the instant petition, i.e. CRL.M.C. 2948/2013, is concerned, the same has arisen out of the matrimonial dispute which has been settled between the parties. The respondent No.2/complainant is not ready to withdraw the instant petition, i.e. CRL.M.C. 2948/2013.

16. The Apex Court in the case ***Pepsi Foods Ltd.& Anr. Vs. Special Judicial Magistrate, 1998 (5) SCC 749***, while holding that Criminal law cannot be set into motion as a matter of course has observed as under:-

"Summoning of an accused in a criminal cases is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not

that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. Magistrate has to carefully scrutinise the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused."

17. The Apex Court in the case ***State of Haryana vs. Bhajan Lal; AIR 1992 SC 604*** has discussed in detail the ambit and scope of High Courts power under Section 482 Cr.P.C. and summarised the position by mentioning as many as seven principles and the principle No. 7 is relevant and would be applicable in the instant case. The present case is squarely covered by the aforesaid principle which is reproduced as under:-

" 105. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers Under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima-facie constitute any offence or make out a case against the accused.

2. *Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers Under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*

3. *Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*

4. *Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated Under Section 155(2) of the Code.*

5. *Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*

6. *Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*

7. *Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.*

(emphasis supplied)

18. Admittedly, the complaint case No.628/2010 filed by the respondent No.2 Shri Pramod Kumar Bajaj before the learned Additional Chief Judicial Magistrate-V, Lucknow and the summoning order dated 18.07.2010 arising

out of the complaint case No. 628/2010 were quashed by the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench vide order dated December 07, 2010 in Crl Misc Case No. 3692 of 2010; and the present petition also arises on the same cause of action. The relevant paragraphs of the judgment dated December 07, 2010 passed by the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench in Crl Misc Case No. 3692 of 2010 is reproduced as under:-

“Now it has to be seen as to whether the impugned order suffers from non application of mind. From a perusal of the copy of the complaint, it appears that the complainant has not levelled any specific or general allegations against the petitioner as to how he was concerned with the telecast of the so called objectionable defamatory episode. From a perusal of the statement of the complainant recorded by the learned Magistrate under 200 of the Code, it appears that he has stated as follows: "He had earlier married to Renu on 09.2.1999. Thereafter, the marriage between the two was dissolved. He entered into re-marriage with Rakhi Gupta on 28.12.2008 who was resident of Delhi but there had been no relation of husband and wife between the two. Rakhi Gupta disclosed him that she was a homosexual lady and she under the pressure of her parents had entered into marriage with him. Rakhi Gupta on 16.12.2009 lodged an F.I.R. for demand of dowry against him (opposite party no. 2) . He was arrested by the Delhi Police and thereafter he was released on bail by the order of the learned Sessions Judge. The police had beaten him and put him to torture while he was under police custody. Sri Ranjeet Kumar Verma also put him to torture. The Chitrans, the Reporter came to the Police Station while he was in police custody along with TV Camera. He pressurised

him and asked certain questions. Therefore he answered those questions under pressure. The interview taken by him was displayed on Sony Entertainment Television under the heading 'Crime Patrol' on 08.02.2010 between 08:30 PM to 09:30 PM. He as well as his family members got badly defamed on account of telecast of above programme. He has stated that all the seven accused namely Manjit Singh, Sri Kalan, Sri Chitrans, Mukund Lal Gaurav others were the persons behind the episode."

From a perusal of the statement of the complainant, it appears that the complainant has not specifically stated as to how the petitioner was directly or indirectly concerned with the so called telecast of defamatory episode. The two witnesses namely Dinesh Singh (PW-1) and Mahesh Prasad (PW-2) have stated nothing as to how the petitioner was concerned for the telecast of the so called defamatory episode. They have only stated that the episode contained false allegation of dowry demand and torture made by the complainant to his wife Rakhi Gupta. The statement of these witnesses only show that the complainant and his family members were defamed on account of telecast of the so called defamatory episode. From a perusal of the statement of complainant and the statement of the witnesses, it appears that the petitioner in this case has been summoned as an accused by the learned Magistrate being vicariously liable for the telecast of the so called defamatory episode. A person cannot be held vicariously liable for the criminal act done by other person unless he is vicariously liable under any law. The complainant or the witnesses have shown nothing as to how the petitioner was vicariously liable for telecast of the so called defamatory episode. He, therefore, could not be summoned on the ground of vicarious liability. In a case of Maksud Saiyed Vs State of Gujrat and others (supra), the Hon'ble Apex Court

has held that while summoning an accused the learned Magistrate has to see the complaint petition even if given face value and taken to be correct in its entirety, would lead to the conclusion that the accused was personally liable for any offence. But in this case, from a perusal of the impugned order, it appears that the learned Magistrate has not specifically observed as to how the petitioner was liable for the telecast of so called defamatory episode. The learned Magistrate has summoned the accused only on the ground that the complainant has named Manjit Singh, Sri Chitrans-reporter and Mukund Lal Gaurav in his statement recorded under Section 200 of the Code, therefore, it will be proper to summon these accused. The learned Magistrate has not specifically accorded his satisfaction that on the basis of statement of the complainant and the witnesses, the involvement of the petitioner in commission of the so called offence is, prima facie, established while he was expected to accord his satisfaction. Unless the learned Magistrate records specific finding as to how the petitioner was concerned with the telecast of so called defamatory episode, he could not be made vicariously liable for the defamation. The impugned order, therefore, suffers from non-application of mind and is liable to be quashed.

So far as the question of vicarious liability of the petitioner for telecasting the so called defamatory episode is concerned, in this case admittedly the petitioner was not directly concerned with the telecast of the so called defamatory episode. He was the Chief Executive Officer of the Company "Multi Screen Media Pvt Ltd" at the time of so called incident, therefore, he is said to be vicariously liable for the telecast of the so called defamatory episode. In case of Maksud Saiyed Vs State of Gujrat and others (supra), the Hon'ble Apex Court held that a person cannot be vicariously liable for the act done by any other person unless law

provides vicarious liability to him. In this case what was expected from the complainant to show prima facie case against the accused was that he was expected to show that on the date of telecast of the disputed episode under the heading 'Crime Patrol', the petitioner had concern with the telecast of the so called defamatory episode. The Petitioner in his petition has specifically alleged that he was the Chief Executive Officer of the 'Multi Screen Media Pvt. Ltd'. He was looking after overall management of the company. The Producer of the episode under the heading of Crime Patrol was 'Optimistic Entertainment India Ltd'. It was Optimistic Entertainment India Ltd. who had displayed the programme 'Crime Patrol' on the 'Sony Entertainment Television Channel'. The petitioner's company was only exclusive distributor of 'MSM Satellite (Singapore) Pvt. Ltd.' who was owner of the Sony Entertainment Television. The petitioner was, therefore, not even distantly related with the display of disputed objectionable episode. Neither the complainant nor the witnesses in their statements have stated as to how the petitioner had got concern with the telecast of the disputed objectionable episode. The petitioner, therefore, cannot be made vicariously liable for the telecast of the disputed episode. In view of the above discussions, the Court is of the opinion that the complaint filed by the complainant against the petitioner is nothing but sheer abuse of criminal process. The summoning order passed by the learned Magistrate against the petitioner is bad in the eyes of law and is liable to be quashed. The petition is, therefore, allowed. The impugned summoning order dated 18.07.2010 as against the petitioner passed by the learned Additional Chief Judicial Magistrate-V, Lucknow as well as the proceeding of Complaint Case No. 628 of 2010; Pramod Bajaj Vs. Manjit Singh and others, under

Sections 499, 500 I.P.C. pending before him as against the petitioner is hereby quashed.”

19. It is also pertinent to mention herein that the Hon’ble High Court of Judicature at Allahabad, Lucknow Bench in CrI Misc Case No. 3692 of 2010 on December 07, 2010 has quashed the impugned order dated 18.07.2010 passed by the learned Additional Chief Judicial Magistrate-V, Lucknow as well as the proceeding of Complaint Case No. 628 of 2010; which was filed on the complaint of Pramod Kumar Bajaj on the same cause of action. Since the whole dispute is matrimonial dispute and the same has been given quietus by the parties through the mediation settlement, (Exh. C-1), I am of the opinion that allowing further proceedings to continue the complaint case No. 13/1/2012 pending in the court of Metropolitan Magistrate, Rohini Courts, Delhi as well as the summoning order dated 19.02.2011 passed by the learned ACJM, Lucknow in complaint No.331/2011 would amount to gross misuse of the process of the Court and miscarriage of justice where personal scores and personal vendetta is being settled through criminal proceedings.

20. Accordingly, in view of the settlement dated 18.08.2016 arrived between Shri Pramod Kumar Bajaj and Ms.Rakhee Gupta and in view of the judgments passed by the Hon’ble Supreme Court in cases ***Pepsi Foods Ltd.*** (supra) and ***State of Haryana & Ors. Vs. Ch.Bhajan Lal*** (supra), I deem it appropriate to quash the complaint case No. 13/1/2012 pending in the court of Metropolitan Magistrate, Rohini Courts, Delhi as well as the summoning order dated 19.02.2011 passed by the learned ACJM, Lucknow in complaint No.331/2011 which is inconsequential in its effect. The petition is disposed

of accordingly. One copy of this judgment be placed on the files of the petitions, i.e. (1) CRL.M.C. 2297/2017, (2) CRL.M.C. 2298/2017, (3) CRL.M.C. 5371/2014, (4) CRL.M.C. 5372/2014, (5) CRL.M.C. 137/2013, (7) CRL.M.C. 1298/2013, (8) CRL.M.C. 3577/2013, (9) CRL.M.C. 4660/2013, (10) CRL.M.C. 4663/2013 and (11) CRL.M.C. 4664/2013. One copy of this judgment be sent to the concerned Court(s).

21. All pending applications (if any) are also disposed of. No order as to costs.

SEPTEMBER 27, 2017/sr

I.S.MEHTA, J

