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

+ **W.P.(CRL) 3029/2016**

RAHUL SHOKEEN

..... Petitioner

Through: Mr.Karamveer Singh, Advocate along
with petitioner in person.

versus

STATE (GOVT OF NCT OF DELHI) & ANR Respondents

Through: Mr.Avi Singh, ASC for the State with
Ms.Megha Bahl, Advocate along with SI Raj
Kumar, PS Kotla Mubarakpur, Delhi.

Mr.Gaurav Chauhan, Advocate for R-2 along with
respondent no. 2 in person.

CORAM:

HON'BLE MR. JUSTICE VINOD GOEL

ORDER

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01.08.2017

1. The petitioner has invoked the writ jurisdiction of this court under Article 226/227 of Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (in short 'Cr.PC) for quashing of FIR No. 548/2014, registered on 01.07.2014 with Police Station Kotla Mubarakpur, Delhi, under Section 307 IPC.
2. The marriage of the petitioner with respondent no. 2 was solemnized on 09.02.2000 as per Hindu rites and ceremonies in Delhi. Out of the said wedlock, two children namely Dev Shokeen and Aashima were born on 18.03.2001 on 22.03.2007 respectively.
3. After the marriage, there used to be quarrel between the petitioner and

the respondent No.2. On 30.06.2014, there was an altercation between the petitioner and the respondent No.2 and the petitioner caused multiple stab injuries on the face, neck, right wrist and right hand of respondent No.2 with a knife. Respondent No.2 was taken to Jai Prakash Narayan Apex Trauma Centre, AIIMS, New Delhi-110029. The Medical Officer described nature of injuries as “simple” and kind of weapon used as “sharp”.

4. Status report has been filed.
5. Learned ASC through the IO submits that the charge sheet has so far not been filed.
6. Respondent No.2 had filed a petition under Section 125 of Cr.PC for maintenance against the petitioner before Principal Judge, Family Court, Saket, New Delhi. She had also filed a petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (in short ‘DV Act’) before the court of learned MM, Mahila Court, Saket, New Delhi.
7. The parties have arrived at a settlement before the learned Mediator, Mediation Centre, Saket Courts, New Delhi, on 03.06.2015 on making a reference by learned MM, South District, Saket Courts, New Delhi, where petition under Section 12 of D.V. Act was pending. The following terms and conditions of settlement were recorded by the learned Mediator: -

“1. It is stated by the husband Sh. Rahul Shokeen and wife Smt.Pooja Shokeen that they have resolved amicably, all their disputes and differences and, are ready to live together peacefully in their matrimonial house along with her two children named above at H. No.25, 3rd Floor, Amrit Nagar, South Extension Part-1, New Delhi from 21.05.2015.

2. They both agree to discharge their responsibilities towards each other and other family members also.

3. Respondent No.1 Rahul Shokeen agree to maintain good relationship and take care of the children and complainant/wife in all means.

4. All the respondents are agree not to ask the complainant Pooja Shokeen to leave the above mentioned house in future.

5. Respondent No.2 and respondent No.3 also agree to give 20,000/- (Rupees twenty thousand only) per month to the complainant Pooja Shokeen and that amount shall be deposited in the bank account of the complainant Pooja Shokeen on or before 2nd day of each English calendar month for a period of one year, if the complainant and respondent NO.1 maintain good relations, then in that case, the said amount will be continued to be paid to Pooja Shokeen.

6. Respondent no.2 and respondent No.3 also agreed that they shall given respective share of all properties owned by them along with ancestral properties to their grandchildren in case respondent No.1 fails to discharge his responsibilities towards his children and wife/complainant.

7. Complainant wants to wait and watch their relationship and seeks one year time to withdraw the present matter.

8. It is also undertaken by both the parties that they both will give respect to the family members, relatives of each other.

9. It is agreed between both the parties that in-laws are free to visit the property at Amrit Nagar, South Extension Part-1 to meet their grandchildren whenever they feel like and also the complainant agrees that she will not object to such visitation. However, it is agreed by the respondents No.2 that he will not stay in the above-mentioned property for more than three days in any given month. Further, the respondent

No.3 shall be free to visit the above-mentioned property to see her grandchildren or otherwise at any time she feels like.

10. It is also agreed between the parties that pursuant to the present settlement, the complainant/wife Pooja Shhokeen will withdraw the present case as well as case u/s 125 Cr.P.C. from the concerned courts after six months.

11. In case any of the respondents fail to adhere or fulfil the terms of the present settlement, the cases withdrawn accordance with this agreement shall stand reopened.”

8. Pursuant to this settlement, the respondent No.2 who is present in the Court states that she had withdrawn her petition filed under Section 12 of the DV Act from the court of Ld.MM, Mahila Court, Delhi. Respondent no. 2 also submits that she had also withdrawn the petition under Section 125 of Cr.PC.
9. The respondent no. 2, who is present in court and duly identified by the IO, submits that she has amicably settled the matter with the petitioner and is living with him happily. She further submits that she has been receiving Rs.20,000/- every month from the petitioner. Both the petitioner and the respondent no. 2 submits that they are taking care of each other and family members and they are living happily and therefore she does not want to pursue with the FIR. She requests that FIR may be quashed.
10. Learned ASC submits that in his bail application the petitioner had admitted having caused injuries to the respondent no. 2 in the scuffle. Para 2 of the application reads as under: -

“2. That the victim.....and has extra marital relations and on being caught behaved violently and had provoked the accused which resulted in the minor injuries to the victim in

this scuffle and accused also received injuries.”

11. He submits that the petitioner requires counselling and such type of people repeat their behaviour. He submits that before quashing the FIR, the petitioner should be referred to Institute of Human Behaviour & Allied Sciences (IHBAS), Dilshad Garden, Delhi for counselling. He submits that the petitioner should be directed to deposit some amount in the name of wife and both children so that he performs his family obligations. For these reasons, he opposes prayer to quash the FIR.
12. The petitioner has submitted that he is earning Rs.30,000/- per month. Both the parties being husband and wife have amicably settled their disputes before the learned Mediator, Mediation Centre, Saket Courts, Delhi. Terms and conditions of settlement are exhaustive. There is no point in adding any term and condition in the settlement by directing the petitioner to deposit some amount in the name of the respondent no. 2 or their children. Though the offences charged against the petitioner is under Section 307 of IPC. The quarrel took place between husband and wife (petitioner no. 1 and respondent no.2). They are having two children aged 16 and 10 years of age. In case, the FIR is not quashed when matter has been resolved amicably by the couple, the court would be causing great harm not only to the relations between husband and wife but to their children also. Both the parties submit that they are living happily and have no problem from each other. Recently the Hon'ble Supreme Court in **“Yogendra Yadav and Ors. Vs. State of Jharkhand & Anr.” AIR 2014 SC**

3055, while dealing with the power of the High Court to quash an FIR u/s. 326 and 307 of IPC held as under: -

“4. Now, the question before this Court is whether this Court can compound the offences Under Sections 326 and 307 of the Indian Penal Code which are non-compoundable? Needless to say that offences which are non-compoundable cannot be compounded by the court. Courts draw the power of compounding offences from Section 320 of the Code. The said provision has to be strictly followed (*Gian Singh v. State of Punjab* (2012) 10 SCC 303). However, in a given case, the High Court can quash a criminal proceeding in exercise of its power Under Section 482 of the Code having regard to the fact that the parties have amicably settled their disputes and the victim has no objection, even though the offences are non-compoundable. In which cases the High Court can exercise its discretion to quash the proceedings will depend on facts and circumstances of each case. Offences which involve moral turpitude, grave offences like rape, murder etc. cannot be effaced by quashing the proceedings because that will have harmful effect on the society. Such offences cannot be said to be restricted to two individuals or two groups. If such offences are quashed, it may send wrong signal to the society. However, when the High Court is convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquility and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, the prosecution becomes a lame prosecution. Pursuing such a lame prosecution would be waste of time and energy. That will also unsettle the compromise and obstruct restoration of peace.”

13. Keeping in view peculiar facts and circumstances of the case and considering the future of the two minor children i.e. 16 years old son and 10 years old daughter of the petitioner and the respondent No.2 as well as the fact that the respondent No.2 is living happily with the petitioner and in case this FIR is not quashed, not only would the

relation between them suffer a setback but their children will also suffer and no purpose would be served in further pursuing with the said FIR and hence, to secure ends of justice, the FIR No. 548/2014, registered on 01.07.2014 with Police Station Kotla Mubarakpur, Delhi, under Section 307 IPC and proceedings arising out of the same are hereby quashed.

14. The petition is disposed of.

VINOD GOEL, J.

AUGUST 01, 2017
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