

\$~32

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

Date of decision: 02.09.2022

+ W.P.(CRL) 1722/2021

TARUN SARKAR & ORS.

..... Petitioners

Through: Mr Vijay Dahiya, Adv.

versus

THE STATE GOVT. OF NCT OF DELHI & ANR. Respondents

Through: Mr Amit Peswani, Adv. for
Ms Nandita Rao, ASC for State
Mr Aashneet Singh, APP for State
SI Ranbir Singh, PS-V.K. South with
SI Rajpal, CAW Cell
Mr Vikas Sharma and Mr Amod
Sharma, Advs. for R-2

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

: **JASMEET SINGH, J (ORAL)**

1. This is a petition seeking quashing of proceedings in DV Case No. 6479/2020 filed by respondent No. 2 against the petitioners.
2. The brief factual background of the matter is that the petitioner No.1 is the husband of respondent No.2, petitioner Nos. 2 and 3 are parents-in-law of respondent No.2 and petitioner No.4 is the brother-in-law.
3. The petitioner No.1 and respondent No.2 got married on 03.02.2020. The relationship turned sour within two months of the marriage. In June 2020, the petitioner No.1 and respondent No.2 parted ways and started

living separately. On 31.08.2020, the respondent No.2 made a complaint before the CAW Cell, Delhi Cantonment alleging commission of offences under Sections 307/354/323/420/498-A/511/406/120-B/34 IPC.

4. On 09.11.2020, the respondent No.2 addressed a letter to CAW cell indicating that the issues between petitioner No. 1 and respondent No. 2 have been resolved and they are willing to stay together. In fact, the respondent No.2 stated that her complaint was false and wanted to close the file and take no action on her complaint. The said letter was followed by another letter dated 13.11.2020 reiterating respondent No.2's request to close her complaint. The letter also states that the issues have been resolved and respondent No.2 will stay happily with her husband. Thereafter, I have been taken through documents to show that the petitioner No.1 and respondent No.2 were trying to make their marriage work, were going out for vacations at different hotels and spending time together. However, despite the best efforts by both the parties, the relationships between them could not be restored, as a result of which, respondent No.2 wrote a letter dated 03.02.2021 and thereafter another letter of 23.02.2021. The letter of 03.02.2021 is not on record, however, a copy was handed over in court. The letter of 03.02.2021 reads as under:

"To

*ACP-WAC
New Delhi
Delhi Cantt.*

*Subject :- Reopen my earlier complaint which I did on
31/08/20.*

Date: 03/02/21

Respected Ma'am/Sir,

I 'Dr Supriya Biswas' filed a complaint against my Husband & my In-laws. I closed my case on the grounds that we will stay together. He will come to take me home from my parental home. On 13/11/20. From that day He didn't come to take me. I insisted of coming home in U.K (Shakti farm) by my own. He denied on that also. On 02/02/21 he came and was sitting in car but didn't come inside. Still I went with him to save our married life and as today is our anniversary (03/02/21). Instead of going Noida (home) he took me to hotel (gurgaon). On reaching there he said he will drop me back at my paternal home. I tried to save my marriage in every way. But he repeated this every time. And he is insisting me on withdrawing the Domestic Violence case which is currently going in Patiala House. Hence, I want to reopen my complaint for appropriate action.

I please to look after my case. My earlier Investigating Officer was SI Yashweer Singh.

*Signed
03/2/2021
Dr Supriya Biswas
K-249/2, Mahipalpur
Extension, New Delhi – 37
9720910548
Date: 03/02/21”*

*Tarun Sarkar
(Husband)
Add.-1501, Hibiscus Tower
Paramount Floral Villa,
Sector-137, Noida
U.P. – 201305
8130694963”*

5. The letter of 23.02.2021 is on record and is reproduced as under:

“To

*ACP-WAC
Delhi Cant
Delhi*

Subject :- Today, I am present regarding to reopen of my complaint against my husband & in-laws.

Respected Sir,

Today I am present on 23/2/2021, against my ~~in~~ complaint on my husband & in-laws. My husband's job is in gurgaon & my clinic is in mahipalpur. My husband currently staying on rented home in Noida. Where I am saying due to ease of both we should shift to nearby both of our work place. I want my streedhan to be given back to me which is with my in-laws. They want me to shift my clinic which currently I don't want to because of this covid situation & economic crisis. Further I want to take my complaint for further process.

*Stamped as
Documents Released By SWD.
Delhi Police Under RTI Act-2005*

*Signed
23/2/2021
Dr Supriya Biswas
9720910548
K-249, 2, Mahipalpur extension
New Delhi – 110037.”*

6. It is stated by Mr Dahiya, learned counsel appearing for the petitioners that once the respondent No.2 has made a statement that her complaint is false and has withdrawn her complaint, the said complaint has come to an end. The original complaint dated 31.08.2020 cannot be revived in view of her subsequent letters dated 03.02.2021 and 23.02.2021, especially when she has stated on 09.11.2020 and 13.11.2020 that her issues have been resolved and she wanted to close the complaints.

7. Mr Dahiya further states that after withdrawing the complaint, the respondent No. 2 has enjoyed matrimonial bliss with petitioner No.1 and even assuming there was any merit in her complaint on 31.08.2020, the same has been condoned/waived by respondent No.2. The list of dates when the petitioner No.1 and respondent No.2 have lived together are as under:

S No.	Dates of stay	Name of Hotel
	25-26.11.2020 (Complainant's birthday)	Park Plaza, Gurgaon
	5th to 8th December, 2020	Holiday Inn, Mayur Vihar
	16th to 17th December, 2020	Crowne Plaza, Okhala
	26th to 27th December, 2020	Crowne Plaza, Greater Noida
	31st December 2020 to 1st January, 2021	Crowne Plaza, Okhala
	2nd February 2021 to 3rd February, 2021 (Marriage anniversary celebration)	Lemon Tree, Gurgaon
	11th – 12th February (Valentine's day celebration)	Ramada hotel, Neemrana
	24th – 25th February	Ibis Aerocity, Delhi
	26th – 27th February	The Umrao, Mahipalpur
	28th February (Relative's ENGAGEMENT)	Community Hall, Lado Sarai

8. There is no denial of this chart by respondent No.2 in her reply.
9. On the other hand Mr Sharma, learned counsel has stated that the withdrawal statements made on 09.11.2020 and 13.11.2020 to CAW cell were confidential information and could not have been placed before this Court. He relies on Section 81-B, 70 and 75 of the Arbitration & Conciliation Act. He further states that statements made to CAW cell are statements in Conciliatory Proceedings and cannot be relied upon. He further states that these statements were made to CAW Cell only with a view to save marriage of respondent No. 2 with petitioner No.1 and cannot be viewed from any other angle. The statement also says that these statements should not be provided to any of the petitioners under RTI.
10. Mr Dahiya states that this is incorrect as both the statements of 09.11.2020 and 13.11.2020 bears the signatures of petitioner No.1, he was privy to the said letters and hence, they were statements made with mutual trust and faith.
11. I have heard learned counsel for the parties.
12. I was initially of the view that the matter should have been settled between the parties and for that reason, I had requested Mr Peswani, learned counsel for the State to personally intervene in the matter and have a dialogue with the parties. He has rendered his able assistance and interacted with the parties at considerable length of time but the parties could not reach at an amicable settlement.
13. As regards the merits of the case, pursuant to the letters dated 09.11.2020 and 13.11.2020 stating that the issues between petitioner No.1 and respondent No.2 have been resolved, the parties again lived together on

numerous occasions as husband and wife during the months of November 2020- February 2021.

14. The respondent No.2 withdrew her complaint dated 31.08.2020 before the CAW cell herself, without any pressure and with her consent. There is also no document on record to show that after the above dates, i.e from 25.11.2020 till 28.02.2021 or after the letters closing her complaint, there was any act of cruelty or domestic violence committed by the petitioners upon respondent No.2.

15. In the present case, the respondent No.2 by her explicit and implicit acts of:-

- a. writing letters dated 09.11.2020 and 13.11.2020 withdrawing her complaints and
- b. residing with the petitioner as husband and wife has condoned/waived the acts of cruelty.

16. Hence, the cause of action namely, the bouquet of facts and circumstances which culminated into filing of the complaint dated 31.08.2020 before the CAW cell stood extinguished by the letters and the acts of the respondent No.2

17. The Supreme Court in “**DR. N.G. Dastane v. MRS. S. Dastane**” [(1975) 2 SCC 326] observed that-

“55. Condonation means forgiveness of the matrimonial offence and the restoration of offending spouse to the same position as he or she occupied before the offence was committed. To constitute condonation there must be, therefore, two things: forgiveness and restoration. The evidence of condonation in this case is, in our opinion, as strong and satisfactory as the

evidence of cruelty.

.....”

18. Vide the letters dated 09.11.2020 and 13.11.2020, the respondent No.2 forgave the petitioners by requesting to close her complaint. She even restored her relationship with petitioner No.1 by living with him as husband and wife between 25.11.2020 till 28.02.2021 on numerous occasions. The running/continuing cause of action also ceased to exist and hence, it can be said that respondent No.2 condoned the acts of cruelty.

19. Once the acts of cruelty are condoned by the respondent No.2, the original complaint dated 31.08.2020 and the letters dated 03.02.2021 and 23.02.2021 do not revive the complaint, specially in view of the fact that there are no fresh allegations of cruelty or domestic violence.

20. As regards the confidentiality of the statements dated 09.11.2020 and 13.11.2020 is concerned, the same bore the signatures of both the parties. Hence, it cannot be said that those statements were confidential and cannot be relied upon as the petitioner No.1 was privy to the said letters.

21. In view of the observations made hereinabove, I am inclined to allow the petition and the proceedings in DV Case No. 6479/2020 filed by respondent No. 2 against the petitioners are hereby quashed.

JASMEET SINGH, J

SEPTEMBER 2, 2022

sr

[Click here to check corrigendum, if any](#)