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

+ **W.P.(CRL) 2990/2022**

SHRI BHANU PRATAP SINGH SENGAR AND ORS..... Petitioner

Through: **Mr. Lave Kumar Sharma, Adv.**

versus

THE STATE GOVT NCT OF DELHI & ANR Respondents

Through: **Mr. Amit Peswani, Adv. for Ms. Nandita Rao, ASC(CRL) for State (GNCTD) with Mr. Kuldeep Singh, ASI, PS. M.S Park.**

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Date of Decision: 14th December, 2022

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

CRL.M.A. 26217/2022 (Exemption)

Exemption is allowed subject to all just exceptions.

W.P.(CRL) 2990/2022

1. The present petition has been filed under Section 482 Cr. P.C. seeking quashing of the case FIR No. 0053/2020 registered at PS Mansarovar under Sections 498A/406/34 IPC.

2. Briefly stated the facts are that the marriage between the petitioner No. 1 (husband) and respondent No. 2 (wife) was solemnized on 22.02.2016 as per Hindu rites and customs at GanjBasoda, Vidisha District, Madhya Pradesh. No child was born out of the wedlock. The parties stayed together till January 2019. Thereafter due to temperamental differences, both parties started residing separately and litigation started emerging between the parties. Respondent No. 2 (wife) filed a petition under section 125 CrPC for maintenance before the Learned Principal Judge, Family Courts, Karkardooma. Respondent No. 2 (wife) also got registered FIR No. 0053/2020 dated 19.02.2020 under Sections 498A/406/34 IPC at P.S Mansarovar Park, Delhi, against the Petitioners herein. It has been submitted that no chargesheet has been filed and the case is still pending investigation with the IO. In pursuance to the FIR, the petitioners apprehending arrest have been admitted on anticipatory bail by the learned District and Sessions Judge, Karkardooma Courts, Delhi vide order dated 10.05.2022 and since then the petitioners have been on bail while the investigation is pending. While the proceedings were underway, with the help and intervention of family members and well-wishers, both the parties have amicably settled all their disputes, as has been recorded by the learned Principal Judge, Family Court, Gwalior in HMA No. 1345/2022 dated 14.10.2022 titled '**Smt. Richa Tomar vs Bhanu Pratap Sengar**'.
3. It has been submitted that as per the mutual and oral settlement, it has been agreed between the parties that the petitioner No. 1 shall pay Rs.

1,50,000/- in two installments towards full and final settlement of the entire dispute and claims *qua* this marriage, including stridhan, maintenance, (present, past and future). As per the settlement both the parties moved before the learned Principal Judge, Family Courts, Gwalior, Madhya Pradesh by filing a petition under section 13B (1), HMA, bearing HMA No. 1345/2022 for divorce by mutual consent. As per the settlement the petitioner No. 1 deposited the first installment of Rs. 75,000/- at the Gwalior court on 14.10.2022 at the time of recording of the statement in the said petition. Thereafter, the learned Principal Judge, Family Court fixed the matter for 20.04.2023 for filing of the second motion under section 13B (2) HMA for divorce by mutual consent. It has been submitted that the petitioner No. 1 shall readily deposit the second installment of Rs. 75,000/- before the Gwalior court at the time of recording of statement in the second motion on 20.04.2023. It has been submitted that in terms of the settlement, the respondent No. 2 (wife) withdrew her petition under section 125 CrPC. It has been further submitted that at present there are no cases pending between the parties against each other except the present FIR. It has been submitted that both the petitioner No. 1 and respondent No.2 are young people and have been living separately since 2019 and have amicably compromised the matter and settled all their disputes. It has been submitted that both the parties want to settle down and lead their respective lives peacefully and independently. It has been submitted that the respondent no. 2/ complainant does not wish to pursue her complaint and FIR No. 0053/2020 against the petitioners.

4. Pursuant to the settlement between the parties, the parties have filed their first motion for divorce by mutual settlement which has been allowed by the learned Principal Judge, Family Courts, Gwalior, Madhya Pradesh on 14.10.2022. As per the settlement the first installment of Rs. 75,000/- has been deposited before the concerned court. The date fixed for recording of their final consent statement in the second motion is 20.04.2023, which is when it has been agreed between the parties that the remaining second installment of Rs. 75,000/- will also be paid to the respondent No. 2.
5. The terms and conditions of the settlement arrived at on 14th October, 2022, as recorded by the learned Principal Judge, Gwalior, Madhya Pradesh reads as follows:

3. हम दोनों ने परिवार के सदस्यों, समाज व न्यायालय की समझाईश पर एक दूसरे पर आक्षेप लगाये बिना पारस्परिक सहमति से विवाह विच्छेद करना तय किया है। इस हेतु दिनांक 11.10.2022 को हम दोनों ने विवाह विच्छेद याचिका प्रस्तुत की है।

4. हम उभय पक्ष के मध्य यह तय हुआ है कि मैं आवेदक क्रमांक 2 आवेदिका क्रमांक 1 के संपूर्ण जीवन के स्थाई भरण पोषण हेतु एकमुश्त राशि 1,50,000/- रुपये (एक लाख पचास हजार रुपये) अदा करूंगा। जिसके एवज में मुझ आवेदक क्रमांक 2 ने 75,000/- रुपये (पचहत्तर हजार रुपये) न्यायालय के सी.सी.डी. क्रमांक-292 पर दिनांक-14.10.2022 को जमा कर दी है शेष राशि अंतिम

कथन के समय अदा करूंगा। अब हम उभय पक्ष के मध्य अन्य किसी प्रकार का लेना देना शेष नहीं है। भविष्य में भी हमारा किसी प्रकार का लेना देना नहीं रहेगा। भविष्य में हम पति पत्नी एक दूसरे से किसी प्रकार की राशि,* सामान, जेवर, चल-अचल सम्पत्ति की मांग नहीं करेंगे। हम उभय पक्ष के मध्य धारा 498ए, 406/34 भा.द.वि. एवं धारा 125 दं.प्र.सं. का प्रकरण विचाराधीन है, जिन्हें हम उभय पक्ष राजीनामा में समाप्त करा लेंगे तथा उक्त प्रकरण में पारित आदेश/निर्णय की प्रतिलिपि इस प्रकरण के अंतिम निराकरण के पूर्व प्रस्तुत करेंगे। इस न्यायालय में लब्ध प्रकरण क्रमांक 30562/21 अंतर्गत धारा 13-1 हिंदू विवाह अधिनियम का हम उभय पक्ष ने राजीनामा में समाप्त करा लिया है। भविष्य में भी हम दोनों पति पत्नी एक दूसरे पर कोई रिविल एवं फौजदारी मामला दावर नहीं करेंगे।

6. Thus, the parties have voluntarily and amicably settled all the disputes/ claims between them. Learned counsel for the petitioner submits that since the parties have resolved all their differences amicably, no useful purpose would be served by continuing the abovesaid FIR and proceedings emanating therefrom and seeks that the same be quashed.
7. The petitioners and respondent No. 2 (wife) are present in person before this court. The IO has duly identified the petitioner Nos. 1 to 5 namely Bhanu Pratap Singh, Kamlesh Sengar, Ahivaran Singh Sengar and Anju @ Mona @ Anju Bhadoriya, Manju respectively and respondent No. 2 namely Richa Singh Tomar. It has been submitted by the Respondent No.2/ Ms. Richa Singh Tomar that she was married to the petitioner No.1 namely Bhanu Pratap Singh Sengar on 22nd February 2016 at GanjBasoda, District Vidisha, Madhya Pradesh and remained together with the petitioner till January 2019. However,

on account of temperamental differences the marriage could not succeed. She has submitted that the matter has been amicably settled, as has been recorded by the learned Principal Judge, Family Court, Gwalior in HMA No.1345/2022 dated 14th October, 2022 in the case titled *Smt. Richa Tomar vs Bhanu Pratap Sengar*'. As per the settlement, the matter has been settled and a sum of Rs. 1,50,000/- has to paid by the petitioner No. 1 towards full and final settlement of the entire dispute, out of which, Rs. 75,000/- has already been deposited at the time of first motion with learned Court of learned Principal Judge, Gwalior, Madhya Pradesh on 14th October, 2022. She has submitted that the remaining sum of Rs. 75,000/- will be deposited at the time of second motion with the Court of learned Principal Judge, Gwalior, Madhya Pradesh on 20th April, 2023. She has submitted that she has willingly and voluntarily settled the matter with the petitioners amicably against all her claims (past, present and future) without any fear, undue influence or coercion. She has further submitted that she has no objection if FIR No. 0053/2020 registered at PS Mansarovar under Sections 498A/406/34 IPC and all other proceedings emanating therefrom are quashed.

8. Thus, having considered the submissions of the parties and upon perusal of the records, this Court deems it apposite to reiterate the settled principles of law with respect to exercising power conferred under 482 CrPC in matrimonial cases.

9. The High Court being the highest court of a State is conferred with the power of control and superintendence over all courts subordinate to it. Articles 226 and 227 of the Constitution of India and Section 482 CrPC also acknowledge the inherent powers of the High Courts. High Courts can exercise its inherent power u/s 482 CrPC either to prevent abuse of the process of the court or otherwise to secure the ends of justice. However, exercise of such power would depend upon the facts and circumstances of each case. The powers possessed by the High Courts under section 482 CrPC are very wide and the very plenitude of the power requires great caution in its exercise. The powers under section 482 CrPC are to be exercised with due care, caution and circumspection and in the rarest of the rare cases. Thus, the power under section 482 CrPC must be exercised very sparingly to render real and substantial justice to the parties. The High Court would exercise its extraordinary jurisdiction under section 482 CrPC, where it finds that non-interference shall result in abuse of the process of the court or failure of justice, or where grave injustice is shown to have been caused and requires to be undone, or where the complaint does not make out any triable case against the petitioner.
10. In ***B.S. Joshi v. State of Haryana***, (2003) 4 SCC 675, the Supreme Court inter alia held as under:

“ 8. We are, therefore, of the view that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320 would not be a bar to the exercise of power of quashing. It is, however, a different matter depending

upon the facts and circumstances of each case whether to exercise or not such a power.

*10. In State of Karnataka v. L. Muniswamy [(1977) 2 SCC 699 : 1977 SCC (Cri) 404] considering the scope of inherent power of quashing under Section 482, this Court held that in the exercise of this wholesome power, the High Court is entitled to quash proceedings if it comes to the conclusion that the ends of justice so require. It was observed that in a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice and that the ends of justice are higher than the ends of mere law though justice had got to be administered according to laws made by the legislature. This Court said that the compelling necessity for making these observations is that without a proper realization of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction. On facts, it was also noticed that there was no reasonable likelihood of the accused being convicted of the offence. **What would happen to the trial of the case where the wife does not support the imputations made in the FIR of the type in question. As earlier noticed, now she has filed an affidavit that the FIR was registered at her instance due to temperamental differences and implied imputations. There may be many reasons for not supporting the imputations. It may be either for the reason that she has resolved disputes with her husband and his other family members and as a result thereof she has again started living with her husband with whom she earlier had differences or she has willingly parted company and is living happily on her own or has married someone else on the earlier marriage having been dissolved by divorce on consent of parties or fails to support the prosecution on some other similar grounds. In such eventuality, there would almost be no chance of conviction. Would it then be proper to decline to exercise power of quashing on the ground that it would be permitting***

the parties to compound non-compoundable offences? The answer clearly has to be in the “negative”. It would, however, be a different matter if the High Court on facts declines the prayer for quashing for any valid reasons including lack of bona fides.

11. *In Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre [(1988) 1 SCC 692: 1988 SCC (Cri) 234] it was held that while exercising inherent power of quashing under Section 482, it is for the High Court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. Where, in the opinion of the court, chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may, while taking into consideration the special facts of a case, also quash the proceedings.*

12. *The special features in such matrimonial matters are evident. It becomes the duty of the court to encourage genuine settlements of matrimonial disputes.*

13. *The observations made by this Court, though in a slightly different context, in G.V. Rao v. L.H.V. Prasad [(2000) 3 SCC 693 : 2000 SCC (Cri) 733] are very apt for determining the approach required to be kept in view in a matrimonial dispute by the courts. It was said that there has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual*

agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their “young” days in chasing their “cases” in different courts.

14. There is no doubt that the object of introducing Chapter XX-A containing Section 498-A in the Penal Code, 1860 was to prevent torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hypertechnical view would be counterproductive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XX-A of the Penal Code, 1860.”

11. Referring to *B.S. Joshi (supra)*, the Supreme Court in *Bitan Sengupta v. State of W.B.*, (2018) 18 SCC 366, observed that in matrimonial disputes with respect to quashing of non-compoundable offences in cases of settlement of such disputes, having ramifications limited to the parties themselves, who have arrived at a settlement, it is the duty of court to encourage and act upon genuine settlements in such cases. It was *inter alia* held as under:

“ 6. As per the appellants, the parties have settled the matter, as they have decided to keep harmony between them to enable them to live with peace and love. The compromise records that Respondent 2 have no grievances whatsoever against the appellants and want both the appellants to get acquitted from the cases. Further, both the parties have undertaken not to indulge in any litigation against each other and withdraw all the complaints pending between them before the court.

7. In the aforesaid circumstances and going by the spirit of the law laid down by this Court in B.S. Joshi v. State of Haryana [B.S. Joshi v. State of Haryana, (2003) 4 SCC 675: 2003 SCC (Cri) 848], we are of the opinion that the High Court should have accepted the settlement and compounded the offences. It is, more so, when the settlement between the parties, who were husband and wife, was even acted upon as the parties took mutual divorce on that basis.

8. We, accordingly, allow this appeal and set aside the order of conviction passed against the appellants.”

12. Further in *State of M.P. v. Laxmi Narayan & Ors.*, (2019) 5 SCC 688, the Supreme Court has observed as under:

“ 15.1. That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2. Such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

15.3. Similarly, such power is not to be exercised for the offences under the special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;”

13. Furthermore, a Coordinate Bench of this Court in CRL.M.C. No. 599/2021 titled *‘Rifakat Ali & Ors Vs. State & Anr.’*, decided on 26.02.2021 and in CRL.M.C. No. 2819/2022 titled *‘Sh. Shailesh*

Deshwal vs. State of NCT of Delhi & Anr.’ decided on 03.08.2022, following the settled principles enumerated above, have exercised their power under section 482 CrPC to quash criminal proceedings in matrimonial cases, whereby parties have amicably arrived upon a genuine settlement.

14. A perusal of the above-mentioned judgments makes the consistent view taken by the Supreme Court amply clear, that the High Courts should exercise the power under Section 482 CrPC for quashing of criminal cases having overwhelmingly and predominantly civil flavor, and in matrimonial matters where the wrong is basically private or personal in nature and the parties have amicably resolved their entire dispute. In such category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim/complainant, the possibility of conviction is remote and bleak, and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim/complainant. It is thus well-settled that in such situations where the High Court is convinced that continuance of the criminal proceedings would lead to abuse of the process of the court or where quashing of such proceedings on account of a compromise would bring about peace and secure the ends of justice, the Courts should not hesitate to quash them.

15. In the present case, the FIR has been lodged by the respondent wife against the petitioner husband under sections 498A/406/34 IPC. The FIR stems from a matrimonial dispute between the parties. The parties have willingly and amicably settled all their disputes with the help of their family members and well-wishers and have moved the Learned Family Court, Gwalior for divorce by mutual consent in pursuance thereof. Statement of the parties have been recorded and First motion has been allowed by the learned Family Court, Gwalior and the next date fixed for recording of the statements in the second motion petition is 20.04.2023. In such case, if the parties have entered a compromise, the chances of an ultimate conviction are bleak, and hence no useful purpose would be served by allowing the criminal proceedings to continue. The matrimonial disputes of such kind as in the present case have been on an exponential rise in the recent times, resulting in filing of complaints by the wife under Sections 498-A and 406 IPC not only against the husband but his other family members as well. When such matters are resolved either by the wife agreeing to rejoin the matrimonial home or mutual separation of husband and wife and also mutual settlement of other pending disputes as a result whereof parties approach the High Court and jointly pray for quashing of the criminal proceedings or the FIR or complaint filed by the wife under Sections 498-A and 406 IPC, the courts should not be reluctant in exercising its power under section 482 CrPC to quash such FIR or proceedings emanating therefrom.

16. Thus, in my considerate view, the continuance of proceedings arising out of FIR No. 0053/2020, given that the mutual consent divorce is already underway and that the parties have amicably settled all their disputes, would be an abuse to the process of the courts and an exercise in futility which would not secure ends of justice. In light of the settled law and the submissions of the parties, this Court deems it fit to exercise its inherent jurisdiction under section 482 CrPC to quash the FIR No. 0053/2020 registered at P.S. Mansarovar under sections 498A/406/34 IPC and all the proceedings emanating therefrom.

17. The present petition stands disposed of.

DINESH KUMAR SHARMA, J

DECEMBER 14, 2022

Pallavi

न्यायमेव जयते