

\$~40

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

+ **CRL.M.C. 5020/2022 & CRL.M.A. 20095/2022**

ABHISHEK KAPOOR & ORS.

..... Petitioners

Through: Mr. Siddharth Singh, Advocate with
petitioners.

versus

STATE & ANR.

..... Respondents

Through: Mr. Hemant Mehla, APP for the State
with Insp. Satbir Singh, PS Subzi
Mandi.

Mr. Ranveer Talwar, Advocate for R-
2.

%

Date of Decision: 20.04.2023.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. The present petition has been filed for quashing FIR no. 0546/2021 registered under Section 498A(a)/406/34 at P.S. Subzi Mandi.
2. Learned Counsel for the petitioner submits that Respondent no.2/complainant married petitioner no.1 on 25.01.2019 in accordance with the Hindu Rites and Ceremonies. There was no issue born out of the marriage. However, on account of irreconcilable and irretrievable issues, the parties started living separately since 08/07/2020 and instituted multiple litigations against each other and their respective families including the present FIR.

CRL.M.C. 5020/2022

Page 1 of 5

3. Learned Counsel further submits that during the pendency of the proceedings, the parties have resolved their disputes amicably and in furtherance thereof they have entered into a settlement deed dated 01/02/2022 for obtaining mutual consent divorce and subsequently getting the FIR quashed. As per the settlement it has been agreed between the parties that the petitioner shall pay Rs. 1,10,00,000/- (Rupees One Crore And Ten Lakhs Only) in full and final settlement of the entire dispute to respondent no. 2/complainant.

4. Pursuant to the settlement, In terms of the settlement a demand draft bearing DD No.866639 in a sum of Rs. 27,50,000/- (Rupees Twenty Seven Lacs Fifty Thousand Only) in the name of Monisha Gosain drawn from Kotak Mahindra Bank has been paid to respondent No. 2. A mutual divorce petition was also filed and a decree of divorce was granted vide order dated 03/06/2022 passed by, Learned Family Judge, Central, Tis Hazari Courts.

5. Furthermore, the Learned Counsel for the petitioners submits that since the parties have resolved all their differences amicably, therefore, it would be in the interest of justice to quash FIR no. 0546/2021 registered under Section 498A(a)/406/34 at P.S. Subzi Mandiall the proceedings emanating therefrom.

6. It is settled that the inherent powers under section 482 of the Code are required to be exercised to secure the ends of justice or to prevent abuse of the process of any court. Further, the High Court can quash non-compoundable offences after considering the nature of the offence and the amicable settlement between the concerned parties. Supreme Court and this Court have repeatedly held that the cases arising out of matrimonial

differences should be put to a quietus if the parties have reached an amicable settlement. Reliance may be placed upon: ***B.S. Joshi v. State of Haryana***, (2003) 4 SCC 675 ;***K. Srinivas Rao v. D.A.Deepa***, (2013) 5 SCC 226; ***Yashpal Chaudhrani and Others vs. State (Govt. of NCT Delhi) and Another***, 2019 SCC OnLine Del 8179.

7. Both parties are present in court and have duly been identified by the IO. Respondent no. 2 submits that she has entered the settlement voluntarily without any fear, force or coercion. She submits that other petitions have already been withdrawn or dismissed. And since the marriage between the parties has also been dissolved by a decree of divorce by mutual consent order/judgment dated 03/06/2022, she has no objection if FIR no. 0546/2021 registered under Section 498A(a)/406/34 at P.S. Subzi Mandi.and all the proceedings emanating therefrom.

8. I have gone through the settlement which has been placed on record. The settlement agreement provides for the following terms and conditions:

“1. That the First Party and Second Party have agreed to get their marriage dissolved by way of decree of divorce by mutual consent under Section 13(B) of Hindu Marriage Act, 1955 from the Hon’ble Family Court, Delhi and shall withdraw their complaints and cases pending against each other in Court of law after execution of this present Settlement Deed.

2. That it has been mutually decided between the parties that the composite amount of Rs. 1,10,00,000/- (Rupees One Crore and Ten Lakhs Only shall be paid by the Second Party and Third Party to the First Party in the following manner:-

A. Rs. 27,50,000/- (Rupees Twenty Seven Lakhs Fifty Thousand Only): The amount would be paid by way of Demand draft at the time of signing of this Settlement Deed.

B. Rs. 27,50,000/- (Rupees Twenty Seven Lakhs Fifty Thousand Only): The amount would be paid by way of Demand draft at the time of recording of joint statement of both the parties u/s 13 B (1), HMA before the concerned Hon'ble Family court, Tis Hazari, Delhi which Petition shall be filed within one week of the execution of the present Settlement Deed.

C. Rs. 27,50,000/- (Rupees Twenty Seven Lakhs Fifty Thousand Only): The amount would be paid by way of Demand draft at the time of recording of joint statement of both the parties u/s 13 B (2), HMA before the concerned Hon'ble Family court, Tis Hazari, Delhi. The Second Motion shall be filed by the parties within a period of 2 months of the grant of the Order granting First Motion of Mutual Consent Divorce between the parties.

D. Rs. 27,50,000/- (Rupees Twenty Seven Lakhs Fifty Thousand Only): The amount would be paid by way of Demand draft at the time of quashing of F.I.R. bearing no. 546/21 under Section 498(A)/406/34 IPC at P.S. Subzi Mandi before Delhi High Court or any other court. It is agreed between the parties that the Second Party within one week of obtaining of the Divorce Decree shall file the Petition for quashing of the FIR in the High Court of Delhi and the First Party shall give her No-Objection Certificate for quashing of the said FIR.”

9. Taking into account the totality of facts and circumstances of the case, this court considers that the parties have entered into an amicable settlement out of their own free will, without any fear, force or coercion and they should be given an opportunity to lead their lives peacefully. No purpose will be served in continuing with the trial.

10. In view of the above, FIR no. 0546/2021 registered under Section 498A(a)/406/34 at P.S. Subzi Mandi all the other proceedings emanating therefrom are quashed.

11. The present petition along with all the pending applications stands disposed of.

DINESH KUMAR SHARMA, J

APRIL 20, 2023/AR

