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

+ CRL.M.C. 795/2024

GAURAV KUMAR & ORS.

.....Petitioners

Through: Mr. Raj Kumar and Mr. H. Rehman,
Advocates along with petitioners in
person.

versus

STATE & ANR.

.....Respondents

Through: Mr. Yudhvir Singh Chauhan, APP for
the State along with IO.

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

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28.10.2024

1. The instant petition under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter “Cr.P.C.”)/now Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter “BNSS”) has been filed by the petitioners praying for quashing of FIR bearing No. 0712/2019 dated 28th November, 2019 registered at Police Station Nand Nagri, Delhi, for the offences punishable under Sections 498A/406/34 of the Indian Penal Code, 1860 (hereinafter “IPC”).

2. The brief facts of the case are that the marriage between the petitioner No. 1 and respondent No.2 got solemnized on 2nd December, 2007 at Delhi according to Hindu rites and ceremonies. However, due to some temperamental differences between the parties, they started living separately since 22nd July, 2015. Two female children were born out of their wedlock



and are in care and custody of the petitioner No.1.

3. Despite several efforts of reconciliation, both the parties could not settle their differences, pursuant to which, the respondent No.2 filed a complaint with the CAW Cell, Saket, New Delhi which led to the registration of the aforesaid FIR against the petitioner on 28th November, 2019.

4. Subsequently, respondent No.2 also filed a petition under Section 9 of the Hindu Marriage Act, 1955 (“HMA” hereinafter) as well as a petition under Section 125 of the HMA against the petitioner No.1. Thereafter, the petitioner No.1 filed a divorce petition on the grounds of cruelty and desertion against the respondent No.2.

5. During the pendency of the aforesaid litigations, the parties were referred to mediation before the Counselling Cell, Family Courts, Shahdara District, Karkardooma Courts, Delhi, wherein the parties amicably resolved their disputes and entered into a compromise *vide* Settlement Agreement dated 5th September, 2022. The terms and conditions of the said settlement are mentioned in the Settlement Agreement which is annexed as Annexure P-2 to the petition.

6. In terms of the aforesaid settlement, the petitioner No. 1 and respondent No. 2 filed a joint petition under Section 13-B (1) of the HMA before the learned Additional Principal Judge, Family Court, Shahdara District, Karkardooma Courts, Delhi and *vide* judgment/order dated 28th July, 2023, the learned Additional Principal Judge, Family Court, Shahdara District, Karkardooma Courts, Delhi allowed the first motion and on 5th September, 2022, the parties were granted decree of divorce under Section 13-B (2) of the HMA.



7. It is submitted that respondent No.2 has settled all her claims in respect of her dowry articles, stridhan, marriage expenses, jewellery, gift items and claims of past, present and future maintenance with the petitioner for a sum of Rs. 5,00,000/- against all disputes of any nature whatsoever. It is submitted that the respondent No. 2 has already received a sum of Rs. 3,50,000/- as per the terms of the Settlement Agreement and the remaining amount of Rs.1,50,000/- was agreed to be paid at the time of quashing of the impugned FIR.

8. The petitioner No. 1 is present in person before this Court and the petitioners no. 2 to 7 are also present before this Court. They have been identified by their counsel, Mr. Raj Kumar, Advocate and Investigating Officer, Police Station Nand Nagri, Delhi. The respondent No. 2 is also present in person before this Court and has been identified by her counsel and the Investigating Officer.

9. In terms of the settlement, the petitioner No. 1 has handed over a Demand Draft bearing No.015159 for the balance amount of Rs.1,50,000/- dated 8th October, 2024 in the name of respondent No.2 today in the Court. The respondent No.2 has verified the particulars of the Demand Draft to her satisfaction and stated them to be correct.

10. On the query made by this Court, respondent No.2 has categorically stated that she has entered into compromise on her own free will and without any pressure. It is also stated by respondent No.2 that the entire dispute has been amicably settled between the parties. The parties also undertook that they shall abide by the terms and conditions of the Settlement Agreement arrived at between the parties.

11. Therefore, it is prayed that the instant FIR be quashed on the basis of



Settlement Agreement dated 5th September, 2022 and as per the judgments of the Hon'ble Supreme Court passed in ***Gian Singh vs. State of Punjab, (2012) 10 SCC 303*** and ***Parbathbhai Aahir @ Parbathbai vs. State of Gujarat, (2017) 9 SCC 641***.

12. Learned APP for the State submitted that there is no opposition to the prayer made on behalf of the petitioners seeking quashing of the FIR in question in view of the settlement arrived at between the parties.

13. Heard learned counsel for the parties and perused the record.

14. The instant criminal proceedings in respect of non-compoundable offences are private in nature and do not have a serious impact on the society especially when there is a settlement/compromise between victim and accused. In such cases, it is settled law that High Court is also required to consider the conduct and antecedents of the accused in order to ascertain that the settlement has been entered into by her own free will and has not been imposed upon her by the petitioner or any person related to him. In the present case, the complainant is present in Court and has categorically stated that she has entered into compromise and settled the entire disputes amicably with the petitioners by her own free will without any pressure or coercion. There is also no allegation from respondent no.2 that the conduct and antecedents of petitioners have been bad towards her after the compromise. As per the settlement, the respondent no. 2 has received the entire settled amount.

15. In the case of ***State of Madhya Pradesh vs. Laxmi Narayan and Ors., (2019) 5 SCC 688***, the Hon'ble Supreme Court held that the powers conferred under Section 482 of the Cr.P.C, can be exercised by the Courts to quash the criminal proceedings featuring non-compoundable offences, when



the matter arises out of matrimonial or family disputes. Moreover, it is pertinent to satisfy the Court that the said non-compoundable offences are private in nature and does not have a serious impact on the society.

16. Furthermore, it was observed by the Hon'ble Supreme Court in the case of ***Ramgopal and Ors. Vs. The State of Madhya Pradesh, 2021 INSC 568***, that the extraordinary power enjoined upon the High Courts under Section 482 of Cr.P.C. can be invoked even when such a case falls within the ambit of non-compoundable offences given that the Court must be satisfied that the nature of the offence does not impact the conscious of the society and that the compromise between the parties is voluntary and amicable.

17. In the instant case, as stated above, the parties have reached on the compromise and amicably settled the entire disputes without any pressure.

18. In view of the settlement arrived at between the parties and the law laid down by the Hon'ble Supreme Court, the present petition is allowed. Accordingly, FIR bearing No. 0712/2019, dated 28th November, 2019 registered at Police Station Nand Nagri, Delhi, for the offences punishable under Sections 498A/406/34 of the IPC and all consequential proceedings emanating therefrom are quashed.

19. The petition alongwith pending application(s), if any, stand disposed of.

CHANDRA DHARI SINGH, J

OCTOBER 28, 2024

rk/sm

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