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

+ **CRL.M.C. 2256/2024**

SHUBHAM SHARMA AND ORS

..... Petitioners

Through: Mr P. K. Dixit and Mr Rajeev Kumar
Rana, Advocates along with
petitioners in person.

versus

THE STATE

..... Respondent

Through: Mr Raj Kumar, APP for the State
with SI Deepak, PS Burari.
Ms Sarita Dixit, Advocate for R-2
along with R-2 in person.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

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19.03.2024

CRL.M.A. 8750/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CRL.M.C. 2256/2024

3. The present petition has been filed under Section 482 CrPC seeking quashing of FIR No.0602/2020 under Sections 498A/354(B)/323/506/377/509/34 IPC registered at Police Station Burari and all consequential proceedings emanating therefrom on the ground that the parties have arrived at a settlement.
4. Issue notice. The learned APP for the State accepts notice. He submits that since the FIR is an outcome of a matrimonial dispute and the parties



have arrived at a settlement, the State has no objection in case the FIR in question is quashed.

5. The petitioner no.1 (former husband) and petitioner nos.2 to 5, who are close relatives of the petitioner no.1, as well as, respondent no. 2 (former wife) are present in the Court and they have been identified by their respective counsel and by the Investigating Officer SI Deepak, PS Burari.

6. The brief facts of the case are that the marriage between the petitioner no.1 and respondent no. 2 was solemnized on 02.01.2019 according to Hindu Rites and Customs. No child was born out of the said wedlock.

7. On account of temperamental issues certain disputes arose between the parties and they started living separately w.e.f. 24.08.2020. The dispute between the parties also led to the registration of present FIR.

8. During the pendency of the proceedings, the parties were referred to the Counselling Cell, Family Court, Central District, where they arrived at a settlement, terms whereof were reduced in writing in the form of Settlement dated 28.07.2023, which is annexed as Annexure P-2 to the present petition.

9. In terms of the said settlement, the parties decided to dissolve their marriage by filing a petition for divorce by way of mutual consent. Accordingly, the marriage between the petitioner no.1 and respondent no.2 was dissolved on 30.11.2023. A copy of the judgment whereby the second motion petition was allowed is attached as Annexure P-3 to the present petition.

10. It is a term of the settlement between the parties that the petitioner no.1 shall pay a total sum of Rs.6 lakhs to the respondent no.2 towards full and final settlement of all her claims on account of *streedhan*, permanent alimony, dowry articles, maintenance (past, present and future) etc. Out of



the said amount, a sum of Rs. 4 lakhs has already been paid by the petitioner no.1 to the respondent no.2 in the manner as mentioned in the settlement. The remaining amount of Rs. 2 lakhs has been paid to the respondent no.2 today in the court by the petitioner no.1 by way of Demand Draft bearing No.390104 dated 18.03.2024 issued by Bank of Baroda.

11. The receipt of entire amount of Rs.6 lakhs is acknowledged by the respondent no.2, who is present in court.

12. The respondent no.2, on a query put by the Court, states that she has no objection in case the FIR is quashed.

13. A coordinate bench of this court in '**Rifakat Ali & Ors Vs. State & Anr.**' [CRL.M.C. No. 599/2021, decided on 26.02.2021] after referring to three decisions of the Supreme Court, has taken a view that an offence under Section 377 IPC, is though a heinous offence, but where such an offence is invoked in a matrimonial dispute and where the parties have decided to part ways and move ahead in their lives without acrimony against each other, power under Section 482 Cr.P.C. can be exercised even for an offence under Section 377 IPC on the ground that the dispute is private in nature. The material part of the said decision reads as under:-

“....10. A perusal of the three judgments which shows that the Supreme Court has consistently held that the power under Section 482 CrPC should not be used for quashing heinous and serious offences of mental depravity or offences like murder, rape, dacoity etc. since these offences are not private in nature and have a serious impact in society. An offence under Section 377 IPC is a heinous offence and points to the mental depravity of the accused and hence ought not to be quashed by the High Court on the basis of compromise by exercising its jurisdiction under Section 482 CrPC.



11. *The present case arises out of matrimonial dispute and the allegation has been made by the wife against the husband. The parties have decided to part ways and get ahead in their lives without having any acrimony against each other. In the facts and circumstances of the case, this Court is inclined to exercise its powers under Section 482 CrPC even for an offence under Section 377 IPC on the ground that the dispute is private in nature.*

12. *The learned counsel for the petitioners has placed reliance on orders of this Court in CRL.M.C.830/2019 titled as Dinesh Kumar & Ors. v. State & Anr., CRL.M.C.1613/2019 titled as Anmol Katyal & Ors. v. State (NCT of Delhi) & Anr., CRL.M.C. 5216/2018 titled as Gajender Singh & Ors. v. State (NCT of Delhi) & Ors. and CRL.M.C. 4117/2018 titled as Joginder Singh Bote & Ors. v. NCT of Delhi & Anr. In all these cases wife has levelled allegation of the husband committing an offence under Section 377 IPC. This Court has exercised its jurisdiction under Section 482 CrPC and has quashed the FIRs on the basis of the compromise entered into between the husband and wife.*

13. *It is made clear that this Court is exercising its powers under Section 482 CrPC to quash an offence of Section 377 IPC on the ground that the parties have compromised the matter with each other only because it arises out of a matrimonial dispute, the allegation has been levelled by wife against her husband of committing an offence under Section 377 IPC and the parties have decided to move ahead in life.”...*

14. I am of the view that the aforesaid judgment applies to the facts of the present case as the offences invoked in the present case are also under Section 354(B) IPC and Section 377 IPC and FIR arises out of matrimonial dispute and parties have parted their ways amicably and have decided to move ahead in their lives.



15. In view of the fact that the parties have arrived at a settlement, no useful purpose will be served in continuing the proceedings, rather the same would create further acrimony between them.

16. It is, thus, in the interest of justice that the present FIR and all the other proceedings emanating therefrom be quashed.

17. Consequently, the petition is allowed and the No.0602/2020 under Sections 498A/354(B)/323/506/377/509/34 IPC registered at Police Station Burari alongwith all other proceedings emanating therefrom, is quashed.

18. The petition stands disposed of in the above terms.

19. Order be uploaded on the website of this court.

VIKAS MAHAJAN, J

MARCH 19, 2024
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