



2024:DHC:5627



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Date of decision: 24th July, 2024**

+ **CRL.M.C. 2413/2024 & CRL.M.A. 9238/2024 (stay)**

VARUN KUMAR AND ORSPetitioners

Through: Mr. Nischay Chaudhary, Advocate.

versus

LATIKA VATSRespondent

Through: Ms. Purnima Maheshwari, Advocate.

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+ **CRL.M.C. 2427/2024 & CRL.M.A. 9268/2024 (stay)**

VARUN KUMAR AND ORSPetitioners

Through: Mr. Nischay Chaudhary, Advocate.

versus

STATE NCT OF DELHI AND ANR.Respondents

Through: MR. Satinder Singh Bawa, APP for State.

Ms. Purnima Maheshwari, Advocate for R-2.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. The Petition under Section 482 of the Code of Criminal Procedure (hereinafter referred to as 'Cr.PC, 1973') has been filed on behalf of the petitioners for quashing of the impugned Order dated 24.02.2023, passed by learned Metropolitan Magistrate Mahila Court-01, (North), Rohini Courts,



Delhi, Police Station Prashant Vihar, Rohini in the Complaint Case 264/2023, titled '*Latika Vats vs. Varun Sharma & Ors.*' and the subsequent proceedings emanating therefrom.

2. Similar Petition bearing CRL.M.C. No. 2427/2024 under Section 482 of CrPC has also been filed on behalf of the petitioners, for quashing of FIR No. 5/2023 under Sections 498/406/34, registered at Police Station Prashant Vihar, Rohini, Delhi and the proceedings initiated therefrom.

3. It is submitted that the petitioner No. 1 is the husband of respondent. He is a Bachelor of Engineering (B.E.) from Nagaji Institute of Technology and Management, Gwalior, M.P. and is currently employed as a Lead Associate, HR at Tata Power Company Ltd. Petitioner No. 2 is the mother-in-law of the respondent and is a senior citizen, who has retired as PGT Political Science teacher with an almost two-decade long career in teaching. Petitioner No. 3 is the father-in-law, who has appeared as a Retd. Senior Scientist (Incharge), Delhi University, Ph.D in Organic Sciences and holder of FIC, FICS.

4. The respondent No. 1 is the wife of petitioner No. 1, who also is an engineering graduate and holds a Bachelor of Technology (Electronics and Communication) degree from a private college. At the time of marriage, she was working as Interactive Video Developer (Unity Software) at Veative Labs, Sector-62, Noida, U.P. She had been working in the Company since 26.10.2016 till 07.09.2018 and resumed her job after two weeks of marriage. On 07.09.2018, she was made to quit her job by the employer because she was found absconding from her job duties. She is currently unemployed since middle of the year 2019.

5. On 21.07.2022, the respondent filed a false, frivolous and vexatious



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complaint with the ACP, CAW Cell, Rohini, Delhi, against the petitioners. The respondent and the petitioner No. 1, executed a Settlement Agreement dated 02.09.2022 before the Mediator, Mediation Centre CAW Cell, Govt. of NCT of Delhi, PS CAW Cell, Sector-03, Rohini, Delhi wherein they had agreed that the petitioner No.1 would pay Rs.8,000/- per month and that they both would shift to the rented accommodation.

6. The petitioner has claimed that later in the evening, the respondent started demanded a cheque of Rs.5,00,000/- and gave an entire list of jewellery articles and ornaments to be returned back to her, before shifting into the rented accommodation.

7. As per her demand, on 03.09.2022, the petitioner No. 1 handed over all the jewellery articles and the petitioner No. 2 also gave two cheques, one of Rs.5,00,000/- and another of Rs.2,50,000/-, both of which were immediately encashed by the respondent. The photographs of the jewellery and the cheques being handed over to the respondent, are annexed along with the Petition.

8. The petitioner has submitted that in compliance of the Settlement, the petitioner No. 1 moved out of his parental home and shifted into a rented accommodation and started paying monthly maintenance to the respondent. On 09.11.2022, the petitioner No. 1 got transferred to Noida and had to report at his new Office on 10.11.2022. He accordingly joined his new Office on 12.11.2022.

9. On 13.11.2022, the respondent No. 2 voluntarily left the rented accommodation and went to her parental home and never returned to the rented accommodation.

10. On 14.11.2022, she filed a false and frivolous complaint to ACP,



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CAW Cell, Rohini, Delhi, requesting to reopen her earlier complaint dated 21.07.2022 and falsely stated that the Mediation Settlement dated 02.09.2022, had not been complied with.

11. On 05.01.2023, FIR No. 5/.2023 under Sections 498/406/34 of the Indian Penal Code (hereinafter referred to 'IPC'), Police Station Prashant Vihar, Rohini, Delhi, has been registered.

12. A false, frivolous and vexatious Complaint **under Section 12 of the Protection of Women from Domestic Violence Act, 2005**, has been filed on 20.02.2023, which is pending before the learned Metropolitan Magistrate, Rohini Courts, Delhi. This Complaint is on the same facts of domestic violence, for which she had already entered into the Mediated Settlement, on 02.09.2022.

13. It is stated that on 24.02.2023 the learned Metropolitan Magistrate had issued the Notice to the petitioner, ignoring the Settlement Agreement *inter se* the parties. It is asserted that because the legal rights and obligations of the parties were settled and crystalised in terms of the MOU, the breach of the Agreement, would not mean that the original cause of action had revived. In addition, the law provides that breach of terms in an Agreement entitles a party to seek enforcement of the terms with additional and further reliefs of interest, penalty or damages but the breach cannot revive an original cause of action, which has been settled by the virtue of one MOU. Since the petitioner had satisfied all the terms of the MOU and had made compliance thereof, the wife cannot now sue unless there is a fresh cause of action that exists.

14. It is further submitted that over and above the MOU, the petitioner No. 1 has already paid Rs.7.5 Lakhs and returned the jewellery articles. The



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petition under Section 12 of Domestic Violence Act, does not disclose any cause of action and the same is illegal and arbitrary. The petitioner No. 2 and petitioner No. 3, never visited the rented accommodation and they never contacted or met with the respondent. They have not committed any act of domestic violence against the respondent. The name of Smt. Shruti Sharma, sister-in-law, who had also been arrayed as a party in the said Petition, has already been deleted on the basis of Domestic Incident Report. It is claimed that the complainant had not approached the learned Metropolitan Magistrate with a Domestic Violence Complaint, with clean hands and has suppressed material facts. The entire proceedings emanating under the Domestic Violence Act, are unjust and untenable. It is no more a *res integra* that the criminal proceedings ought not to be permitted to degenerate into a weapon of harassment. Thus, the impugned Order dated 24.02.2023 passed by the learned Metropolitan Magistrate and the proceedings emanating thereunder, be quashed.

15. Learned counsel appearing on behalf of the respondent has submitted that the Agreement dated 02.09.2022, relied upon by the petitioner, was an endeavour by the parties to settle their disputes and make an attempt to reside together. However, the parties were unable to reside and there were acts of Domestic Violence committed not only by the petitioner No. 1 but also by his parents, as has also been borne out from the Domestic Incident Report. It is submitted that there is no merit in the present Petition, which is liable to be dismissed.

16. **Submissions heard.**

17. By way of the present Petition, the petitioners are seeking the quashing of the proceedings initiated under the Protection of Women against



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the Domestic Violence Act. There are specific averments made in the said Petition about the acts of the domestic violence that have been committed by the petitioners against the respondent. There are disputed facts involved which cannot be summarily considered in the present Writ Petition. The petitioners herein have a right to challenge the Order of summoning and move appropriate application for discharge.

18. Moreover, essentially quashing is sought in terms of the Settlement dated 02.09.2022 before the CAW Cell, Mediation Centre. Pertinently, the terms of the Settlement, as agreed by both the parties, essentially reflect that an endeavour was made by them to amicably settle their disputes and to reside together. If such effort of reconciliation has failed, it cannot be at this stage be inferred that all the remedies of the respondent available to her, under the law, had been forfeited. In case the petitioner No. 1 has given her 7.5 Lakhs or returned her jewellery, he is at liberty to agitate these aspects at the appropriate stage, in the relevant proceedings.

19. Hence, there is no merit in the present Writ Petitions.

20. The Writ Petitions in Criminal Miscellaneous Cases Nos. 2413/2024 and 2427/2024 are disposed of accordingly. The pending applications also stand dispose of.

(NEENA BANSAL KRISHNA)
JUDGE

JULY 24, 2024/RS