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

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Date of Decision: 03.07.2024

+ CRL.M.C. 2966/2024

ABHIMANYU KUMAR

.....Petitioner

Through: Mr.Bhupendra Kumar Sharma and
Mr.Vijaydatt Gahtori, Advocates with
petitioner- in-person.

versus

THE STATE OF NCT DELHI & ANR.

.....Respondents

Through: Ms. Kiran Bairwa, APP for State with
SI Lovekant, PS Pandav Nagar.
Mr.Sumanto Dey, Mr.Mukesh Kumar
Singh, Mr.Narendra K. Goyal and
Ms.Saba, Advocates for R-2 with R-2
in person.

+ CRL.M.C. 3770/2024

ABHIMANYU KUMAR & ANR.

.....Petitioners

Through: Mr.Bhupendra Kumar Sharma and
Mr.Vijaydatt Gahtori, Advocates with
petitioners- in-person.

versus

STATE OF NCT DELHI & ANR.

.....Respondents

Through: Ms. Kiran Bairwa, APP for State with
SI Vikas Yadav, PS Badarpur.
Mr.Mukesh Kumar Goyal, Mr.Ikshit
Singhal and Mr.Chandrakant S.
Sarkar, Advocates for R-2 with R-2 in
person.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

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J U D G M E N T

ANOOP KUMAR MENDIRATTA, J (ORAL)

CRL.M.C. 2966/2024 & 3770/2024



1. CRL.M.C. 2966/2024 under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioner for quashing of FIR No. 0502/2014, under Section 324 IPC, registered at P.S.: Pandav Nagar and the proceedings emanating therefrom. Sections 315/509 IPC were subsequently invoked.
2. CRL.M.C. 3770/2024 under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioners for quashing of FIR No. 626/2014, under Sections 498A/406/34 IPC, registered at P.S.: Badarpur and the proceedings emanating therefrom.
3. In brief, as per the case of the petitioners, marriage between petitioner Abhimanyu Kumar and respondent No. 2 was solemnized according to Hindu rites and ceremonies on 22.02.2011. A female child was born out of the wedlock on 01.04.2012. Due to temperamental differences, petitioner Abhimanyu Kumar and respondent No. 2 started living separately. A petition under Section 9 of Hindu Marriage Act was filed on behalf of petitioner Abhimanyu Kumar for Restitution of Conjugal Rights. The matter was settled between petitioner Abhimanyu Kumar and respondent No. 2 and both started residing in a rented accommodation.
4. On 27.06.2014, respondent No. 2 made a PCR Call alleging that her left wrist had been cut with a kitchen knife by her husband (petitioner Abhimanyu Kumar) and FIR No. 0502/2014, under Section 324 IPC, was accordingly registered at P.S.: Pandav Nagar. However, in the MLC, it was observed that no definite opinion can be given whether injury was self inflicted or caused by petitioner Abhimanyu Kumar.

On 05.07.2014, respondent No. 2 was again admitted to hospital and on 06.07.2014, an abortion was made with her consent. Sections 315/509



IPC were invoked after the abortion at instance of respondent No. 2.

5. A complaint was also lodged on behalf of petitioner Abhimanyu Kumar under Section 156(3) Cr.P.C. alleging that abortion had been made by respondent No. 2 without his consent.

6. Thereafter, respondent No. 2 lodged another complaint on the basis of which FIR No. 0626/2014, under Sections 498A/406/34 IPC, was registered on 24.10.2014 at P.S.: Badarpur, which is subject matter of CRL.M.C. 3770/2024.

7. Learned counsels for petitioners as well as respondent No. 2 along with respondent No. 2 submit that allegations regarding abortion consequent upon the assault by petitioner Abhimanyu Kumar were made in the heat of moment, though there is no conclusive medical evidence in this regard. It is pointed out that in Complaint Case filed on behalf of petitioner Abhimanyu Kumar claiming that abortion had been carried without his consent, Dr. Anuradha Mishra, SAG, LBS Hospital was examined as CW-3. She therein deposed that in the discharge slip of respondent No. 2 dated 04.07.2014, she had given an opinion that foetus was fine inside the womb and patient insisted on discharge. It is urged that the same clearly reflects that foetus was healthy on the date of discharge and abortion on 06.07.2014 thereafter, was a medical complication beyond the control of parties.

8. Learned counsel for petitioner also submits that matter was referred for mediation pursuant to orders issued by the Division Bench of this Court and disputes between the parties have since been amicably settled in terms of settlement dated 14.12.2023. Petitioner Abhimanyu Kumar and respondent No. 2 are also stated to have been divorced vide decree of divorce dated 06.03.2021. It is also pointed out that petitioner Abhimanyu Kumar has since



married on 22.01.2022, after divorce.

9. Balance amount of Rs. 9,10,866/- in terms of settlement has been paid to respondent No. 2 today through DD No. 006994 dated 18.05.2024 drawn on IDBI Bank, Vasant Kunj, New Delhi Branch in favour of respondent No. 2.

10. Learned APP for the State submits that in view of amicable settlement between the parties, she has no objection in case the FIRs in question are quashed.

11. Petitioners in the present case seek to invoke the powers under Section 482 of the Code of Criminal Procedure. The same is to be used to secure the ends of justice or to prevent the abuse of process of Court. In which cases, the power to quash the criminal proceedings or the complaint or FIR may be used when the offender as well as victim have settled their dispute, would depend upon the facts and circumstances of each case and no generalized list or categories can be prescribed. However, the Court is required to give due regard to the nature and gravity of the offence and consider the impact on the society.

The High Court also is not foreclosed from examining as to whether there exists material for incorporation of such an offence or as to whether there is sufficient evidence which if proved would lead to proving the charge for the offence charged with. It may also be assessed, if in view of compromise between the parties, the possibility of conviction in such a case is remote and whether continuation of proceedings would cause grave oppression and prejudice the accused.

12. Petitioners and Respondent No. 2 are present in person and have been identified by SI Lovekant, P.S.: Pandav Nagar and SI Vikas Yadav, P.S.:



Badarpur. I have interacted with the parties and they confirm that the matter has been amicably settled between them without any threat, pressure or coercion. Respondent No. 2 submits that all the disputes between the parties have been amicably settled and she has no further grievance in this regard.

13. It may also be observed that parties intend to put quietus to the proceedings, since the disputes arise out of matrimonial differences. The settlement shall promote harmony between the parties and permit them to move forward in life. Also the chances of conviction are bleak in view of amicable settlement between the parties. Further, no past involvement of the petitioners has been brought to the notice of this Court.

14. Further, as admitted by the parties and learned APP for State, no conclusive evidence has come during investigation, if the abortion was on account of alleged assault by the petitioner Abhimanyu Kumar. Rather as already observed in statement of Dr. Anuradha Mishra, SAG, LBS Hospital, the foetus was healthy on 04.07.2014 and abortion was done after readmission of respondent No. 2 on 05.07.2014. Charge against petitioner Abhimanyu Kumar under Section 315 IPC has been framed despite aforesaid glaring infirmity on record.

15. Considering the facts and circumstances, since the matter has been amicably settled between the parties, no useful purpose shall be served by keeping the case pending. It would be nothing but an abuse of the process of Court. Consequently, FIR No. 0502/2014, under Sections 324/315/509 IPC, registered at P.S.: Pandav Nagar and FIR No. 626/2014, under Sections 498A/406/34 IPC, registered at P.S.: Badarpur and the proceedings emanating therefrom stand quashed.

16. Further, in the facts and circumstances, instead of imposing costs upon



the petitioners, petitioner Abhimanyu Kumar is directed to plant 50 saplings of trees, which are upto 03 feet after getting in touch with the competent authority (i.e. Horticulture Department of MCD / DDA / Conservator of Forests, Department of Forests & Wildlife, Govt. of NCT of Delhi) through IO / SHO, P.S.: Pandav Nagar. The photographs of planted saplings alongwith report of IO / SHO concerned shall be forwarded to this Court within eight weeks. Further, the upkeep of the saplings / trees shall be undertaken by the authorities concerned. In case of non-compliance of directions for planting of trees, petitioner Abhimanyu Kumar shall be liable to deposit cost of Rs. 50,000/- with the Delhi State Legal Services Authority.

Petitions are accordingly disposed of. Pending applications, if any, also stand disposed of.

A copy of this order be forwarded to learned Trial Court for information.

A copy of this order be kept in connected petition.

ANOOP KUMAR MENDIRATTA, J.

JULY 03, 2024/R