



2024:DHC:8038



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

% **Date of order: 18th October, 2024.**

+ **CRL.M.C. 5667/2023 & CRL.M.A. 21333/2023**

RACHIT JAIN

.....Petitioner

Through: **Mr. Sahil Gupta, Advocate**

versus

GOVT OF NCT OF DELHI & ANR.

.....Respondents

Through: **Mr. Yudhvir Singh Chauhan, APP for
State along with W/SI Sanju, P. S.
North Rohini
Mr. Archit Singh, Advocate for R-2
(Through VC)**

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 ('CrPC' hereinafter) read with Article 227 of the Constitution of India seeking quashing of the First Information Report ('FIR' hereinafter) bearing no. 463/2015 dated 14th June, 2015 registered at by the respondent no.2 at Police Station - Rohini under Sections 498A, 406 and 323 of the Indian Penal Code, 1860 ('IPC' hereinafter).

2. The petitioner and respondent no. 2 were married in the year 2012, however, it is alleged that tensions arose between the parties due to physical harassment of the respondent no.2 by the petitioner and his family members

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which led to lodging of a complaint by the respondent no.2 with the Police Station - Civil Lines, Delhi which subsequently culminated into the impugned FIR.

3. Thereafter, from the year 2015-2017, various conciliation attempts were made by the petitioner and the dispute got settled between the parties vide the Memorandum of Understanding dated 28th November, 2016 ('MOU' hereinafter) and the couple started cohabiting, leading to pregnancy of the respondent no.2.

4. It is stated that pursuant to the aforesaid settlement, the respondent withdrew her complaint in the year 2017, however, tensions arose between the parties and the respondent no.2 again went back to live with her parents.

5. Thereafter, vide the order dated 5th December, 2022, the learned MM-01 (Mahila Court), North – West District, Rohini Courts, Delhi took cognizance of the matter and charged the petitioner under Section 498A, 406 and 323 IPC in the aforesaid FIR (Cr. Case No. 4780/2017).

6. Aggrieved by the same, the petitioner has preferred the instant petition seeking quashing of the FIR on the basis of the aforementioned settlement between the parties.

7. Learned counsel appearing on behalf of the petitioner submitted that the allegations leveled against the petitioner are baseless and vague, and no specific incident has been mentioned in the complaint which would attract the invocation of Section 498A of the IPC.

8. It is submitted that the expression cruelty, as contained in the above said provision, requires a conduct on part of the husband or his relatives



which cause a woman to commit suicide, or cause grave injury or danger of life or health, and since the facts of the present case do not substantiate the said allegations, no *prima facie* case is made out against the petitioner.

9. It is submitted that the parties entered into an MOU dated 26th November, 2016 and all the disputes stood resolved amicably including the agreement to quash the impugned FIR and the respondent no.2 has already received the benefits as agreed under the MOU.

10. It is submitted that a child is born out of the wedlock post the lodging of the said FIR and the couple had resolved their dispute amicably, however the respondent no.2 is wriggling out of the terms of the MOU, and playing fraud on the petitioner by making false and vexatious statements.

11. It is submitted that despite settlement and payment of the amount as agreed between the parties, the respondent no.2 wants to keep the dispute alive for *mala fide* reasons and therefore, this Court may quash the FIR to prevent unnecessary harassment of the petitioner and his family members.

12. *Per Contra*, the learned counsel appearing on behalf of the respondent no. 2 vehemently opposed the present petition submitting to the effect that despite the aforementioned MOU, the respondent no.2 is subjected to physical and verbal abuses from the petitioner and his family members, and therefore, no case arises for quashing of the impugned FIR.

13. It is submitted that despite execution of the aforesaid MOU, the respondent no.2 was continuously and severely harassed physically as well as mentally, and the concerned authorities were duly reported about the atrocities committed by the petitioner and the family members upon the



respondent no. 2. Due to the said reason, the respondent no. 2 had to go back to her parental home as she was subjected to constant harassment.

14. It is submitted that the petitioner is a habitual drinker and hurl physical and verbal abuses upon the respondent no. 2 for not getting enough dowry and the same is also supported by his family members, therefore, leading to deterioration of the mental and physical well being of the respondent no.2.

15. It is submitted that pursuant to a lot of persuasion from the family members, the respondent no.2 went back to the matrimonial house, but the same behavior sustained therefore, forcing the respondent no.2 to come back to her parent's house.

16. It is submitted that the respondent's parents had spent more than Rs. 1.5 Crores in her wedding, however, the petitioner and her family members still taunt her for getting less dowry and make mockery as and when they get a chance to.

17. It is submitted that as per the grounds of the aforementioned MOU, the parties decided to get a divorce decree by mutual consent and settle all disputes with the condition that the respondent no. 2 shall withdraw all the pending proceedings against the petitioner and the petitioner shall have to pay Rs. 45,00,000/- to the respondent no. 2.

18. It is further submitted that the aforesaid grounds of the MOU have no weightage at all as the settlement between the parties stands null and void on the very day when both the parties decided to reconcile and not opt for second motion of divorce proceedings, thus, the instant petition has become



infructuous and liable to be dismissed.

19. In view of the foregoing submissions, the learned counsel for the respondent no.2 submitted that the present petition may be dismissed.

20. Heard the learned counsel for the parties and perused the material available on record.

21. It is the case of the petitioner that the parties have already arrived at the settlement and the petitioner has paid Rs. 45 Lakhs to the respondent no.2 and despite agreeing to end the matter amicably, the respondent no.2 is backtracking from the assurance, therefore, leading to unnecessary harassment to the petitioner and his family members.

22. The MOU placed on record depicts that the parties had agreed to settle the dispute and the respondent no.2 undertook to take back the complaint filed by her under the Domestic Violence Act, 2005. As per the contents of the MOU, the parties decided to get a divorce decree by mutual consent and settle all disputes with the condition that the respondent no. 2 shall withdraw all the pending proceedings against the petitioner and the petitioner shall have to pay Rs. 45,00,000/- to the respondent no. 2.

23. The status report is also on record and it is depicted from the same that the respondent no.2 was subjected to constant physical and verbal abuses from the petitioner and his family members.

24. There is no doubt that the respondent no.2 withdrew her complaint filed under Section 12 of the Domestic Violence Act, 2005 vide order dated 22nd February, 2017 in case bearing MT No. 55992/2016 and the couple started living together and a child was born out of the wedlock, however, the



subsequent events suggest that the petitioner and his family members continued the physical and mental harassment on the respondent no.2 in several ways.

25. As per the material on record, the respondent no.2 has alleged that the petitioner had already taken the amount given at the time of settlement and further took away her hard earned money which she earned by running an independent boutique.

26. The medical certificate issued in the year 2019 depicts that despite amicable settlement between the parties, the respondent no.2 was subjected to serious physical abuse by her husband, therefore, leaving her no choice but to go back to her parental home.

27. Furthermore, the reply filed by the respondent no.2 also makes it evident that the petitioner had misbehaved, physically assaulted his wife on multiple occasions and the same was promoted by his family members. In light of the same, the respondent no. 2 has opposed the instant petition seeking quashing of the impugned FIR submitting to the effect that the same stands null and void since the divorce did not take effect between the parties which was a necessary condition under the said MOU and that the petitioner subjected the respondent no. 2 to constant cruelty.

28. Insofar as the law is concerned, quashing of an offence or criminal proceedings on the ground of settlement or compromise between an offender and the victim is not the same thing as compounding of an offence. While quashing a criminal offence or a criminal proceeding under Section 482 of the CrPC, the High Court is guided by the material on record as to whether



the ends of justice are being met and what would be the ultimate consequence of quashing such criminal proceeding. Similar observations have also been made by the Hon'ble Supreme Court in ***Gian Singh v. State of Punjab*, (2012) 10 SCC 303**.

29. In the afore said judgment, it was also observed by the Hon'ble Supreme Court that offences arising from family disputes may be quashed if the High Court is of the view that because of the compromise between the accused and the victim, the possibility of conviction is remote and bleak, and continuation of the criminal case would cause prejudice to the accused.

30. Although it is settled that in the cases where settlement has been arrived at among the parties, the same may be quashed as proceeding with the trial in such event would be futile. However, this Court is of the view that offences pertaining to the matrimonial relationships must not be quashed in a routine manner, especially if the victim of the said offence has opposed the said quashing by denying the settlement.

31. Further, the Hon'ble Supreme Court in the case of ***Daxaben v. State of Gujarat*, (2022) 16 SCC 117** has also held that the quashing of FIR on the basis of settlement may set a dangerous precedent, and despite *prima facie* establishment of serious offenses against the accused, the financially strong people will get scot free, even in the cases involving grave and serious offenses.

32. In the instant case, the material as placed by the respondent no.2 is cogent enough for this Court to believe that the petitioner and her family members assaulted her several times and despite the respondent no. 2 agreed



to go back to the matrimonial home, she was further subjected to cruelty by the petitioner.

33. It is also observed by this Court that the parties decided to get a divorce decree by mutual consent and settle all disputes with the condition that the respondent no. 2 shall withdraw all the pending proceedings against the petitioner and the petitioner shall have to pay Rs. 45,00,000/- to the respondent no. 2.

34. However, the respondent no. 2 has opposed the instant petition stating to the effect that the said MOU stands null and void since the second motion of the divorce did not take effect. Further, the respondent no. 2 has also opposed the instant petition on the ground that the petitioner had already taken back the aforesaid amount given at the time of settlement and further took away her hard earned money which she earned by running an independent boutique.

35. Needless to say that even though this Court has wide powers under Section 482 CrPC, the same needs to be used sparingly and only in those cases where no harm may be caused to the society.

36. The instant case is a textbook example of how the affluent people try to flout the law by coercing the aggrieved party to settle the dispute, despite the offense being criminal in nature and approach the Courts citing such settlement deed.

37. In light of the above factual scenario, this Court does not find any reason to quash the impugned FIR as the cause of action still persists and the settlement as arrived by the parties was never abided by the petitioner and he



subjected his wife to torture and cruelty, a condition necessary to attract the framing of charges under 498A of the IPC. In view of the same, it is held that the petitioner has been unable to put forth any propositions warranting exercise of inherent powers of this Court as the petitioner's conduct still includes the criminal nature of the offence for which he was charged with under the aforesaid FIR.

38. Therefore, this Court is of the view that the present petition being bereft of any merit is liable to be dismissed and the Court below may proceed with the trial.

39. Accordingly, the instant petition stands dismissed along with pending applications, if any.

40. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

OCTOBER 18, 2024
GS/AV/RYP

Click here to check corrigendum, if any