



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

% Date of Decision: 15.01.2024

+ **CRL.M.C. 7230/2023, CRL.M.A. 26970/2023**

IN THE MATTER OF:

MR PRATHAM AND ORS

..... Petitioners

Through: Mr. Pankaj Sinha and Mr. Rahul,
Advocates.

versus

GOVT OF NCT OF DELHI AND ANR

..... Respondents

Through: Mr. Laksh Khanna, APP for State.
Ms. Geeta Luthra, Sr. Advocate for
respondent No.2.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. The present petition has been instituted under Section 482 Cr.P.C.
seeking following prayers:-

*“A) Pass the order/directions quashing the impugned the
Complaint (Ct) case no- 10070 of 2023 before LD (MM)
Mahila court, North-West, Rohini District Court at New Delhi
filed by the respondent no.2.*

*B) Pass the order/directions quashing the impugned
Maintenance case no- 381 of 2023 before LD Family court,
North-West, Rohini District Court filed by the respondent
no2...”*

2. Petitioner No.1 has claimed that marriage was solemnized with
respondent No.2 on 17.01.2019. However, within one month of the same,
respondent No.2 left the matrimonial home without any rhyme and reason.
The petitioner made efforts for reconciliation but they proved to be futile.
Petitioner also states that in April, 2019, he came to know that respondent



No.2 had conceived a child out of their marriage. Another attempt was made by the petitioner to reconcile the differences, but the same failed as respondent No.2 refused to resume the marital relationship. Subsequently, a girl child was born on 22.01.2020. Another attempt for conciliation was made by the petitioner whereafter respondent No.2 returned to matrimonial home, but left immediately on the next day. Thereafter, petitioner No.2 (father of petitioner No.1) made a complaint on 01.07.2020 alleging intimidation and harassment at the hand of respondent No.2 and other family members of respondent No.2. Respondent No.2 thereafter filed the aforesaid cases namely, Complaint Case No.10070/2023 and Maintenance Case No.381/2023.

3. The Supreme Court has laid down parameters as to whether documents relied by the petitioner lead to irresistible conclusion of their innocence. Reference in this regard can be made to the decision in Rajiv Thapar and Ors. v. Madan Lal Kapoor¹, wherein it was observed:-

“29. ...To invoke its inherent jurisdiction under Section 482 CrPC the High Court has to be fully satisfied that the material produced by the accused is such that would lead to the conclusion that his/their defence is based on sound, reasonable, and indubitable facts; the material produced is such as would rule out and displace the assertions contained in the charges levelled against the accused; and the material produced is such as would clearly reject and overrule the veracity of the allegations contained in the accusations levelled by the prosecution/complainant... For this the material relied upon by the defence should not have been refuted, or alternatively, cannot be justifiably refuted, being material of sterling and impeccable quality. The material relied upon by the accused should be such as would persuade

¹ (2013) 3 SCC 330



a reasonable person to dismiss and condemn the actual basis of the accusations as false. In such a situation, the judicial conscience of the High Court would persuade it to exercise its power under Section 482 CrPC to quash such criminal proceedings, for that would prevent abuse of process of the court, and secure the ends of justice.”

4. Petitioner's challenge to the continuation of trial of the cases filed by the respondent No.2 is premised on the assertion that respondent No.2 was previously married to one *Mr. Vijay Kumar*, from whom no legal and valid divorce was taken by her. On the strength of this assertion, petitioner No.1 claims that his marriage with respondent No.2 is void. The entire basis of the aforesaid assertion is a private handwritten document styled as a divorce deed executed between the respondent No.2 and said *Mr. Vijay Kumar*. Petitioner No.1 claims that the said document was handed over by respondent No.2 herself. Petitioner also claims to have filed a complaint under Section 156(3) Cr.P.C.
5. The proceedings in the aforesaid two cases instituted by the respondent No.2 are admittedly pending before the concerned Court. The petitioner has liberty to produce the aforesaid documents before the concerned Court, wherein the authenticity and genuineness of the said documents can be tested. The documents are not of incontrovertible nature which require this Court to interfere and quash the trial.
6. Consequently, the petition alongwith pending application is dismissed.

MANOJ KUMAR OHRI
(JUDGE)

JANUARY 15, 2024/rd