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

+ **CRL.M.C. 5441/2024**

SH. ANUPAM GAHOI

.....Petitioner

Through: Mr. Bharat Aggarwal, Advocate
alongwith petitioner *via* video-
conferencing.

versus

STATE (GOVT. OF NCT OF DELHI) AND ANRRespondents

Through: Ms. Shubhi Gupta, APP for State with
SI Meenakshi Mann, P.S. : North
Rohini Mr. Sandeep Vats, Advocate
for R2with R2 *via* video-
conferencing.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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19.07.2024

CRL.M.A. 20827/2024

Exemption allowed, subject to just exceptions.

Let requisite compliances be made within 01 week.

The application stands disposed-of.

CRL.M.C. 5441/2024

By way of the present petition filed under section 482of the Code of Criminal Procedure 1973, the petitioner, who is the former husband of the complainant/respondent No. 2, seeks quashing of case FIR No. 54/2018 dated 27.02.2018 registered under sections 498-



A/406/34 of the Indian Penal Code, 1860 ('IPC') at P.S.: North Rohini, Delhi. Sections 3/4 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act 1989, are also stated to have been invoked in the matter.

2. Though the present petition has been filed under the provisions of the Code of Criminal Procedure 1973 ('Cr.P.C.'), in the opinion of this court, on a plain reading of section 531(2)(a) of the Bharatiya Nagarik Suraksha Sanhita 2023 ('BNSS'), proceedings are to be "... ..*disposed of, continued, held or made...* ..." in accordance with the Cr.P.C. *only* in cases where ***such proceedings***, viz. "... ..*any appeal, application, trial, inquiry or investigation...* ...", were already ***pending*** immediately before the date on which the BNSS came into force, *i.e.* 01.07.2024. It appears therefore, that while inserting the repeal and savings provision in section 531 of the BNSS, the intention of Parliament was to not disrupt on-going proceedings by changing the governing law during the pendency of such proceedings.
3. In the circumstances, since the present petition has been *filed after 01.07.2024*, in the opinion of this court, the present petition ought to have been filed under the BNSS. Be that as it may, in order to obviate any unnecessary delay, the present petition is treated as one under section 482 Cr.P.C. read with 528 of the BNSS.
4. The petition is premised on Settlement Deed dated 15.03.2021 arrived at through mediation before the Family Courts, North West Rohini, Delhi; and Divorce Decree dated 20.04.2022, which is the culmination of petitions under sections 13B(1) and 13B(2) of the Hindu Marriage



Act 1955, whereby the parties had sought dissolution of their marriage by mutual consent.

5. No appeal is stated to have been filed from the divorce decree.
6. Issue notice.
7. Ms. Shubhi Gupta, learned APP appears on behalf of respondent No.1/State and Mr. Sandeep Vats, appears on behalf of respondent No. 2 on advance copy; and accept notice.
8. The petition is supported by affidavits of the petitioner, as also of respondent No. 2, alongwith proofs of their I.D.s.
9. The petitioner as well as respondent No. 2 have joined the hearing *via* video-conferencing. Their credentials have been verified and they have also been identified by their respective counsel and by the I.O.
10. The parties have two children, who are stated to be about 17 years and 19 years of age. Both children presently reside with respondent No.2.
11. Respondent No.2 has confirmed that in accordance with the terms of Settlement Deed dated 15.03.2021, the property in Delhi that was to be transferred by the petitioner in the joint names of respondent No. 2 and her son, has been so transferred and that she holds the title documents and is also in physical possession of that property. She also confirms that the petitioner as well as his parents will be entitled to interact with and meet the two children, in accordance with the terms of the Settlement Deed.
12. Ms. Shubhi Gupta, learned APP confirms that the State has no objection to the subject FIR being quashed.
13. In the circumstances, in line with the law laid down by the Supreme Court in ***Gian Singh vs. State of Punjab & Anr.*** reported as (2012) 10



SCC 303 as also in *Narinder Singh & Ors. vs. State of Punjab & Anr.* reported as (2014) 6 SCC 466, this court sees no reason why the subject FIR and all proceedings emanating therefrom should not be quashed. This court is of the view that in light of the settlement between the contesting parties, continuing with the subject FIR and all subsequent proceedings would be an exercise in futility and would not be conducive to peace and harmony between the parties.

14. Accordingly, FIR No. 54/2018 dated 27.02.2018 registered under sections 498-A/406/34 IPC at P.S.: North Rohini, Delhi is quashed. All proceedings arising therefrom also stand closed.
15. Needless to add that the settlement between the parties leading to the closure of all criminal proceedings by way of the present order will in no way affect the rights of the children, namely their daughter Charu (17 years) and son Rahul (19 years) *vis-à-vis* their father, as may be available under law, in any manner whatsoever.
16. Petition stands disposed-of.
17. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

JULY 19, 2024
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