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

+ **CRL.M.C. 6483/2024**

SACHIN & ORS.

.....Petitioners

Through: Mr. Rajender Yadav, Advocate.

versus

THE STATE NCT OF DELHI AND ANR

.....Respondents

Through: Ms. Shubhi Gupta, APP for the State
with Inspector Surender and SI
Narender, P.S.: Kanjhawala.
Mr. Ajeya Singh, Mr. Sahil Patel, Ms.
Pinki and Ms. Komal,
Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

21.08.2024

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CRL.M.A. 24812/2024 (exemption)

Exemption granted, subject to just exceptions.

Let requisite compliances be made within 01 week.

The application stands disposed-of.

CRL.M.C. 6483/2024

By way of the present petition filed under section 482 of the Code of Criminal Procedure 1973 ('Cr.P.C.'), the petitioners, who are the former husband and in-laws of the complainant/respondent No. 2, seek quashing of case FIR No. 362/2014 dated 13.05.2014 registered under sections 498A/406 of the Indian Penal Code, 1860 at P.S.: Kanjhawala, Delhi ('subject FIR').



2. Though the present petition has been filed under the provisions of the 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. 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 528 of the BNSS.
4. The petition is premised on Settlement Deed dated 04.12.2023 arrived at through mediation before the Delhi Mediation Centre, Rohini District Courts, Delhi; and Divorce Decree dated 16.03.2024, 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. The petition is also supported by affidavits of the petitioners, as also of respondent No. 2, alongwith proofs of their I.D.s.



6. The petitioners as well as respondent No. 2 are present in court. Their credentials have been verified and they have also been identified by their respective counsel.
7. No appeal is stated to have been filed from the divorce decree.
8. The court has queried respondent No. 2, who confirms that she has taken divorce by mutual consent; and that a settlement deed has been entered into between the parties; and that in full-and-final settlement of all her claims including towards maintenance (past, present and future), *stridhan*, dowry articles, jewellery, permanent alimony, etc., she was to receive a sum of Rs.13,50,000/- from petitioner No. 1; out of which Rs. 9,00,000 /- was paid earlier and Rs. 4,50,000/- has been paid in court today, in compliance of the terms of the settlement deed. Respondent No. 2 confirms that all aspects of the settlement have now been performed.
9. Ms. Shubhi Gupta, learned APP confirms that the State has no objection to the subject FIR being quashed.
10. 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.



11. Accordingly, FIR No. 362/2014 dated 13.05.2014 registered under sections 498A/406 IPC at P.S.:Kanjhawala, Delhi is quashed. All proceedings arising therefrom also stand closed.
12. However, it is noticed that as per the settlement between the parties, the custody of their minor child Naitik is to remain with respondent No. 2, with no visitation rights being available to petitioner No. 1. In this behalf it is clarified that nothing in this order, or in the settlement arrived between the parties, shall affect the rights of the minor child Naitik to meet and interact with his father as the child may desire, subject to the convenience of the parties.
13. Needless to also 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 property rights of the minor child Naitik *vis-à-vis* his father, as may be available under law, in any manner whatsoever.
14. Petition stands disposed-of.
15. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

AUGUST 21, 2024/ak