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

+ **CRL.M.C. 6755/2024**

SHUBHAM KARANWAL

.....Petitioner

Through:

Mr. Ujwal Ghai with Mr. Kanhaiya
Singhal, Advocates and petitioner in-
person.

versus

STATE (NCT OF DELHI)

.....Respondent

Through:

Mr. Utkarsh, APP for the State with
W/SI Raksha.
Respondent No.2 in-person.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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29.08.2024

CRL.M.A. 25799/2024

Exemption granted, subject to just exceptions.

The application stands disposed-of.

Crl. M.C. 6755/2024

By way of the present petition filed under section 482 of the Code of Criminal Procedure 1973 ('Cr.P.C.'), the petitioner and complainant/respondent No. 2, seek quashing of case FIR No. 449/2014 dated 20.04.2014 registered under section 354-C of the Indian Penal Code, 1860 ('IPC') at P.S.: New Ashok Nagar, New Delhi ('subject FIR').

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. 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. Mr. Ujwal Ghai, learned counsel appearing for the petitioner submits, that the present petition is premised upon respondent No.2's (who is the complainant) statement made before the learned Metropolitan Magistrate, Mahila Court, Karkardooma Courts, New Delhi on 20.10.2022, whereby she has agreed to the quashing of the subject FIR.

In the said statement respondent No. 2 has said the following :

"I am the complainant in this case. I do not want to continue with the cross-examination and do not want to pursue the matter. I will cooperate for the quashing this matter before Hon'ble High Court of Delhi.

I am making this statement without any fear, coercion or undue influence."



5. The petition is also supported by affidavits of the petitioner, and of respondent No. 2, alongwith proofs of their I.D.s.
6. The petitioner and respondent No. 2 are present in court. Their credentials have been verified and they have also been identified by the Investigating Officer ('I.O.').
7. Mr. Utkarsh, learned APP confirms that the State has no objection to the subject FIR being quashed.
8. Sensing some peculiarities in the present case, this court has queried respondent No.2 closely. Upon being queried, she has candidly admitted that she does not wish to pursue the proceedings in the subject FIR any further since she is a working woman and it takes a lot of effort for her to take leave and remain absent from her work repeatedly to attend hearings before the learned Trial Court ("बार-बार नहीं आ सकती"). She also says that she wants to move-on with her life instead of re-visiting the trauma she has faced in the course of the proceedings.
9. The position taken by respondent No.2 clearly reflects the harsh systemic delays that plague our justice dispensation set-up, with the consequent problems that litigants, in particular victims, face in pursuing their legal remedies. The present matter is a classic example of 'litigation fatigue'.
10. After giving the matter some careful thought, this court is constrained to observe that it is quite apparent in the present case that respondent No.2 has conceded to the quashing of the subject FIR for two principal reasons: *first*, that she is unable to repeatedly appear before the learned Trial Court, since she has to take leave and forsake her work to do so; and *second*, that she is apprehensive that she may have to face further



embarrassment in the course of her cross-examination before the learned Trial Court.

11. However, since respondent No. 2 has categorically expressed that she does not wish to go-on with the proceedings in the subject FIR, this court is persuaded to accept her position and to quash the subject FIR.
12. 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 is persuaded to quash the subject FIR and all proceedings emanating therefrom. 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 the welfare and peace of mind of respondent No.2.
13. While allowing the petition however, this court considers it appropriate, that by way of atonement, the petitioner shall pay costs of Rs.10,000/- to Friendicoes SECA, No.271 & 273, Defence Colony Flyover Market, Jungpura, New Delhi within 04 weeks.
14. Petitioner is directed to place on record the proof of payment of costs, within 02 weeks thereafter.
15. Subject to the aforesaid condition, FIR No. 449/2014 dated 20.04.2014 registered under section 354-C IPC at P.S.: New Ashok Nagar, New Delhi is quashed. All proceedings arising therefrom also stand closed.
16. The Registry is directed to re-list the matter if costs are not paid as directed above.



17. The petition stands disposed-of.
18. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

AUGUST 29, 2024
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