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

+ **CRL.M.C. 6956/2024**

DHARAM PAL SINGH

.....Petitioner

Through: Mr. Raj Kumar with Mr. Aman
Chauhan, Advocates.
Petitioner in court.

versus

STATE NCT OF DELHI AND ORS.

.....Respondents

Through: Ms. Shubhi Gupta, APP for the State
with SI Parveen, P.S.: Malviya Nagar.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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04.09.2024

CRL.M.A. 26570/2024

Exemption allowed, subject to just exceptions.

Let requisite compliances be made within 01 week.

The application stands disposed-of.

CRL.M.C. 6956/2024

By way of the present petition filed under section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023, the petitioner, who is the father-in-law of the complainant/respondent No. 2 and husband of the victim/respondent No.3, seeks quashing of case FIR No. 257/2024 dated 03.05.2024 registered under section 308 of the Indian Penal Code, 1860 ('IPC') at P.S.: Malviya Nagar, New Delhi.

2. The petition is premised on Memorandum of Understanding dated 26.06.2024, whereby the petitioner, respondent No. 2 and respondent No. 3 have resolved the matter amicably.



3. The petition is also supported by affidavits of the petitioner and of respondents Nos. 2 and 3, alongwith proof of their I.D.s.
4. The contesting parties are present in court. Their credentials have been verified and they have also been identified by their respective counsel.
5. The court has interacted with respondent No.3, as also with the petitioner, who have confirmed that they have now resolved the matter and a Memorandum of Understanding dated 26.06.2024 has been signed by them closing all issues amicably. Parties now wish to live in peace and harmony going forward.
6. Ms. Shubhi Gupta, learned APP appears for the State on advance copy; and strongly opposes the prayer made in the present petition. Ms. Gupta has handed-up the case diary to the court, to show that the evidence collected in the course of investigation shows that the petitioner was not only beaten by her husband, but she was struck with an iron rod, which rod was also recovered from the rooftop of their house with blood-stains on it, which match the blood group of respondent No.3.
7. Though respondent No.3/victim, who is the wife of the petitioner has *denied wholesale* all allegations contained in the FIR and has said in court that she sustained injuries since she had fallen-off the stairs in her house, this court is convinced that the injuries as reflected in MLC dated 02.05.2024 are the result of acts on the petitioner's part; and respondent No. 3 is recanting on such allegations only to protect her husband, playing the good, devout wife.



8. In the above circumstances, this court is inclined to believe that respondent No.3 had suffered injuries by reason of a brutal assault by her husband, the petitioner, which *prima-facie* makes-out a case under section 308 IPC.
9. That being said, this court is persuaded to act with restraint and accommodation, since the fact is that the petitioner is about 70 years old and respondent No.3 is about 67 years of age. Besides, after interacting with respondent No. 3, it is also clear that she is a person with no independent resources and would be left completely bereft if her husband was to be put through a trial and punished. Also, in view of the categorical statements made by respondent No. 3 before this court, it is almost certain that she would turn hostile in the course of trial.
10. The court has also interacted with the petitioner; and has communicated to the petitioner in very clear words the court's opinion as to what had transpired, which led to serious injuries to respondent No. 3. It is not surprising that though the petitioner admits that he had had an altercation with his wife, he denies having assaulted her.
11. The petitioner is also stated to have suffered judicial custody for about 45 days.
12. On an overall conspectus of the facts and circumstances of the case, especially considering the age of the parties and the almost certainty that respondent No.3 would turn hostile in the course of the trial, this court is left with no option but to quash the subject FIR, in an effort to



give the best chance to possible peace and harmony between the parties going forward.

13. In doing so, the court is also guided by the spirit of what has been enunciated 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.
14. That being said however, the FIR is quashed *subject to* the petitioner continuing to pay to respondent No. 3 Rs.17,000/- per month, regularly and punctually, as agreed-to in Memorandum of Understanding dated 26.06.2024; with a further direction that the petitioner shall pay costs of Rs. 15,000/- to Friendicoes SECA, No.271 & 273, Defence Colony Flyover Market, Jungpura, New Delhi, within 04 weeks.
15. The petitioner is directed to place on record the proof of payment of costs within 01 week of payment.
16. The Registry is directed to re-list the matter if costs are not paid as directed.
17. Also, the petitioner is directed to attend counselling sessions with an appropriate counsellor to be appointed by the Delhi High Court Mediation & Conciliation Centre, with the aim and intent that the petitioner be counselled about his violent behaviour towards his wife, in such manner and for such number of sessions as the counsellor may deem appropriate.
18. The Mediation Centre is directed to co-ordinate for the petitioner to attend the requisite counselling sessions as directed above, within 04 weeks.



19. A copy of this order be sent to the learned Organizing Secretary of the Mediation Centre, for information and compliance.
20. Subject to the aforesaid conditions, FIR No. 257/2024 dated 03.05.2024 registered under section 308 IPC, at P.S.: Malviya Nagar, Delhi is quashed. All proceedings arising therefrom also stand closed.
21. The petition stands disposed-of.
22. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

SEPTEMBER 4, 2024
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