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

+ **CRL.M.C. 324/2024**

ZAHIDA SALMANI

..... Petitioner

Through: Mr. Rahul Kumar Singh and Mr.
Shailendra Kumar Singh, Advs. with
petitioner in person.

versus

STATE OF GOVT OF NCT OF DELHI AND ANR..... Respondent

Through: Mr. Raj Kumar, APP for State with SI
Abhishek PS Khajuri Khas, Delhi
Respondent no. 2 in person.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

% **15.01.2024**

CRL.M.A. 1259/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CRL.M.C. 324/2024

3. The present petition has been filed under Section 482 CrPC seeking quashing of FIR No.990/2015 under Sections 498A/406/376/34 IPC and Section 4 of the Dowry Prohibition Act, 1961 registered at Police Station Khajuri Khas and all consequential proceedings emanating therefrom on the ground that the parties have arrived at a settlement.
4. Issue notice. The learned APP for the State accepts notice. He submits that there were six persons who were arraigned as accused in the FIR. However, two accused persons have expired and the present petition has accordingly being filed by four accused persons.
5. The petitioner no.1 (husband), the petitioner no. 2 and 4, who are brother and sister respectively of petitioner no. 1, as well as, respondent no.



2 (wife) are present in the Court and they have been identified by the Investigating Officer SI Abhishek PS Khajuri Khas, Delhi. The petitioner no. 3, who is also brother of petitioner no. 1 is stated to have suffered a paralytic attack the previous evening and accordingly he is exempted from personal appearance.

6. The brief facts of the case are that the marriage between the petitioner no.1 and respondent no. 2 was solemnized on 08.11.2012 according to Muslim Rites and Customs. A complaint was made by the respondent no. 2 against the accused persons which resulted into the registration of the aforesaid FIR.

7. During the pendency of the proceedings, the parties arrived at a settlement, terms whereof were reduced in writing in the form of compromised / settlement deed dated 03.01.2023, which is annexed as Annexure P3 to the present petition.

8. The learned counsel for the petitioner submits that he petitioner no. 1, as well as, respondent no. 2 have amicably resolved all their disputes and are now residing together. This position is also affirmed by the respondent no.2, who is present in Court.

9. The respondent no. 2, on a query put by the Court, states that she has no objection in case the FIR is quashed.

10. One of the offences alleged in FIR is also under Section 376 IPC. A coordinate bench of this court in '*Rifakat Ali & Ors Vs. State & Anr.*' [CRL.M.C. No. 599/2021, decided on 26.02.2021] after referring to three decisions of the Supreme Court, has taken a view that an offence under Section 377 IPC, is though a heinous offence, but where such an offence is invoked in a matrimonial dispute and where the parties have decided to part



ways and move ahead in their lives without acrimony against each other, power under Section 482 Cr.P.C. can be exercised even for an offence under Section 377 IPC on the ground that the dispute is private in nature. The material part of the said decision reads as under:-

“....10. A perusal of the three judgments which shows that the Supreme Court has consistently held that the power under Section 482 CrPC should not be used for quashing heinous and serious offences of mental depravity or offences like murder, rape, dacoity etc. since these offences are not private in nature and have a serious impact in society. An offence under Section 377 IPC is a heinous offence and points to the mental depravity of the accused and hence ought not to be quashed by the High Court on the basis of compromise by exercising its jurisdiction under Section 482 CrPC.

11. The present case arises out of matrimonial dispute and the allegation has been made by the wife against the husband. The parties have decided to part ways and get ahead in their lives without having any acrimony against each other. In the facts and circumstances of the case, this Court is inclined to exercise its powers under Section 482 CrPC even for an offence under Section 377 IPC on the ground that the dispute is private in nature.

12. The learned counsel for the petitioners has placed reliance on orders of this Court in CRL.M.C.830/2019 titled as Dinesh Kumar & Ors. v. State & Anr., CRL.M.C.1613/2019 titled as Anmol Katyal & Ors. v. State (NCT of Delhi) & Anr., CRL.M.C. 5216/2018 titled as Gajender Singh & Ors. v. State (NCT of Delhi) & Ors. and CRL.M.C. 4117/2018 titled as Joginder Singh Bote & Ors. v. NCT of Delhi & Anr. In all these cases wife has levelled allegation of the husband committing an offence under Section 377 IPC. This Court has exercised its jurisdiction under Section 482 CrPC and has quashed the FIRs on the basis of the compromise entered into between the husband and wife.



13. It is made clear that this Court is exercising its powers under Section 482 CrPC to quash an offence of Section 377 IPC on the ground that the parties have compromised the matter with each other only because it arises out of a matrimonial dispute, the allegation has been levelled by wife against her husband of committing an offence under Section 377 IPC and the parties have decided to move ahead in life.”...

11. I am of the view that the same analogy will apply to the offence under Section 376 IPC which is one of the offence alleged in the FIR, inasmuch, as the parties have resolved all their matrimonial disputes amicably and are now living together peacefully.

12. Considering the fact that the parties have arrived at a settlement and have started staying together, no useful purpose will be served in continuing the proceedings, rather the same would create further acrimony between them.

13. It is, thus, in the interest of justice that the present FIR and all the other proceedings emanating therefrom be quashed.

14. Consequently, the petition is allowed and the FIR No.990/2015 under Sections 498A/406/376/34 IPC and Section 4 of the Dowry Prohibition Act, 1961 registered at Police Station Khajuri Khas alongwith all other proceedings emanating therefrom, is quashed.

15. The petition stands disposed of in the above terms.

16. Order be uploaded on the website of this court.

VIKAS MAHAJAN, J

JANUARY 15, 2024

N.S. ASWAL