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

+ **CRL.M.C. 7264/2024**

FARAZ AHMAD & ORS.

.....Petitioners

Through: Mr. Kunwar Arish Ali and Mr. Yaseer Wali, Mr. Tafseer Ahmed, Mr. Zubair, Mr. Mushfiq Yasmin and Mr. Jagveer Singh, Advocates.
Petitioners in court.

versus

STATE GOVT. NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Utkarsh, APP for the State with ASI Shakuntala, P.S.: Dayalpur. Mohd. Atif And Mr. Mansoor, Advocates for R2 with R2 in court.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **12.09.2024**

CRL.M.A. 27722/2024

Exemption granted, subject to just exceptions.

The application stands disposed-of.

CRL.M.C. 7264/2024

By way of the present petition filed under section 482 of the Code of Criminal Procedure 1973, the petitioners, who are the former husband and in-laws of the complainant/respondent No. 2, seek quashing of case FIR No. 0436/2019 dated 31.10.2019 registered under sections 377/498-A/406/34 of the Indian Penal Code, 1860 ('IPC') at P.S.: Dayal Pur, Delhi.

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 but meaningful 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; and to therefore not change the governing law during the pendency of such proceedings.
3. Since the present petition is a fresh proceeding and 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 30.11.2023 arrived at through mediation before the Delhi Mediation Centre, Karkardooma District Courts, Delhi entered into between petitioner No. 1 and respondent No. 2.
 5. The petition is supported by affidavits of the petitioners, as also of respondent No. 2, alongwith proof 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 and the Investigating Officer.
 7. The court has interacted with respondent No.2, who confirms that she has received the sum of Rs.2,00,000/- due to her, as per the terms of the settlement deed; and that petitioner No.1 has divorced her by pronouncing *talaq* thrice, at the gap of about a month each.



8. Respondent No. 2 informs the court, that subsequently she has also contracted *nikah* with another person.
9. The balance sum of Rs.2,50,000/-, which was to be paid by way of an FDR for a term of 10 years in the name of their son Master Aman (aged about 07 years) in terms of the settlement, has also been handed-over to respondent No. 2 in court today, respondent No. 2 being the nominee in that FDR.
10. Respondent No. 2 confirms that all aspects of the settlement have now been performed.
11. Furthermore, the settlement deed records that the custody of the minor child shall remain with the mother and that the father shall not have any visitation rights to the child in future. Irrespective of what has been recorded in the settlement deed however, with consent of parties, it is observed that nothing in the settlement deed shall prevent the minor child from interacting and engaging with his father, if and when he so desires, subject to logistical convenience of the parties.
12. Mr. Utkarsh, 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. 0436/2019 dated 31.10.2019 registered under sections 377/498-A/406/34 IPC at P.S.: Dayal Pur, 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 property rights and other rights of the minor child, namely Aman *vis-à-vis* his 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

SEPTEMBER 12, 2024
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