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

+ **CRL.M.C. 7363/2024**

PANKAJ KUMAR & ANR.

.....Petitioners

Through: Mr. Arun Bhushen, Mr. P.S. Bhushen, Ms. Divya Sorayan and Mr. Kushal Yadav, Advocates.

versus

STATE & ANR.

.....Respondents

Through: Mr. Utkarsh, APP for the State with SI Tarun Khatri, P.S. Nihal Vihar. Mr. Lalit Sharma, Advocate for R2.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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18.09.2024

CRL.M.A. 28094/2024 (exemption)

Exemption granted, subject to just exceptions.

The application stands disposed-of.

CRL.M.C. 7363/2024

By way of the present petition filed under section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023, the petitioners seek quashing of case FIR No. 1372/2023 dated 18.10.2023 registered under sections 328/376-D of the Indian Penal Code, 1860 at P.S.: Nihal Vihar, Delhi. Consequent upon completion of investigation, *vide* chargesheet dated 06.01.2024, the petitioners have also been charged under section 34 of the I.P.C.

2. The petition is premised on Settlement Agreement dated 02.05.2024 arrived at through mediation before the Delhi High Court Mediation &



Conciliation Centre, Delhi High Court; and Divorce Decree dated 13.08.2024, 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.

3. The petition is also supported by affidavits of the petitioners, as also of respondent No. 2, alongwith proof of their I.D.s.
4. 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.
5. The parties have confirmed that no child was born from the wed-lock.
6. No appeal is stated to have been filed against the divorce decree.
7. The court has interacted with respondent No. 2. She has shared with the court her reasons for entering into a settlement with petitioner No.1. For sake of privacy and confidentiality of respondent No.2, it is not considered appropriate to record those reasons in this order.
8. Mr. Utkarsh, learned APP appearing for the State points-out that the Settlement Agreement dated 02.05.2024 has been signed under the aegis of the Delhi High Court Mediation and Conciliation Centre, Delhi High Court only by petitioner No.1 and respondent No.2; and it appears that petitioner No.2 was not party to the mediation proceedings with respondent No.2; and hence it must be taken that no settlement has been arrived at between petitioner No. 2 and respondent No. 2.
9. However, upon being queried, respondent No.2 states that for reasons that she has already enunciated in court, she does not wish to pursue the FIR even against petitioner No.2.



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. However, while allowing this petition, this court records that it is persuaded to quash the subject FIR only in the interests and welfare of respondent No. 2; but is constrained to note that the petitioners' conduct towards respondent No. 2 has been such as is abhorrent to all acceptable societal norms and practices. In the circumstances, this court considers it appropriate, that by way of atonement, the petitioners shall pay costs of Rs.1,00,000/- each to Friendicoes SECA, No.271 & 273, Defence Colony Flyover Market, Jungpura, New Delhi, within 04 weeks.
12. Subject to the aforesaid condition, FIR No. 1372/2023 dated 18.10.2023 registered under sections 328/376-D of the Indian Penal Code, 1860 at P.S.: Nihal Vihar, Delhi is quashed. All proceedings arising therefrom also stand closed.
13. Petitioners are directed to place on record proof of payment of costs, within 01 week thereof.
14. The Registry is directed to re-list the matter if costs are not paid as directed.



15. The petition stands disposed-of in the above terms.
16. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

SEPTEMBER 18, 2024

V.Rawat