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

+ **CRL.M.C. 8266/2024**

GAURAV TYAGI & ORS.

.....Petitioners

Through: Ms. Meera Kaura Patel (DHCLSC)
with Ms. Manika Pandey, Advocates
and petitioners in court.

versus

STATE, NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Sanjeev Sabharwal, APP for the
State with Ms. Sanya Narula,
Advocate.

SI Dharmveer, P.S.: Chhawla.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

21.10.2024

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By way of the present petition filed under section 482 of the Code of Criminal Procedure 1973 ('Cr.P.C.'), the petitioners, who are the former husband and in-laws of the complainant/respondent No. 2, seek quashing of case FIR No. 0158/2011 dated 04.08.2011 registered under sections 498-A/406/34 of the Indian Penal Code, 1860 ('IPC') at P.S.: Chhawla, 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 an *ex-parte* divorce decree dated 23.04.2012 passed under sections 13(1)(ia) of the Hindu Marriage Act 1955, by which the marriage between respondent No.2 and petitioner No.1 has been dissolved.
5. The petition is also supported by affidavits of the petitioners, as also of respondent No. 2, alongwith proof of their IDs.
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 the Investigating Officer.
7. Though there is no settlement agreement in writing, respondent No.2 is present in court and the court has interacted with her. She confirms that she has been living separately from petitioner No.1 since 2010 and that she has taken divorce from him by way of an *ex-parte* decree dated 23.04.2024. She also informs the court that she has subsequently re-married.
8. The parties have confirmed that no child was born from the wed-lock.



9. No appeal is stated to have been filed from the divorce decree; and the petitioner states that he accepts the verdict dissolving his marriage with responding No. 2.
10. Mr. Sanjeev Sabharwal, learned APP confirms that the State has no objection to the subject FIR being quashed.
11. 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.
12. Accordingly, case FIR No. 0158/2011 dated 04.08.2011 registered under sections 498-A/406/34 IPC at P.S.: Chhawla, Delhi is quashed. All proceedings arising therefrom also stand closed.
13. The petition stands disposed-of.
14. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

OCTOBER 21, 2024

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