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

+ **CRL.M.C. 9929/2024**

VARUN SHARMA AND OTHERSPetitioners

Through: Mr. Amitesh Giroti and Mr. Nipun
Gupta, Advs.
Petitioners in person.

versus

STATE GOVT. OF NCT OF DELHI AND ANR.Respondents

Through: Mr. Sunil Kumar Gautam, APP for
State with SI Naresh Kumar Sharma
PS Shahdara, Delhi
Respondent no. 2 in person.

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER
18.12.2024

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CRL.M.A. 38047/2024 (exemption)

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

CRL.M.C. 9929/2024

3. The present petition has been filed under Section 528 BNSS, 2023 seeking quashing of FIR No. 309/2021 under Sections 498A/406/377/34 IPC registered at P.S. Shahdara and all consequential proceedings emanating



therefrom, on the ground that the parties have arrived at a settlement and they are now residing together.

4. Issue notice. The learned APP for the State accepts notice. He submits that since the FIR is an outcome of a matrimonial dispute and the parties have arrived at a settlement and they are now residing together, the State has no objection in case the FIR in question is quashed.

5. The petitioner no. 1 (husband), petitioner nos. 2, 3 and 4, who are close relatives of petitioner no.1, as well as, respondent no. 2 (wife) are present in Court and they have been identified by learned counsel for the petitioner and by IO SI Naresh Kumar Sharma, PS Shahdara, Delhi.

6. The brief facts of the case are that the marriage between the petitioner no. 1 and respondent no. 2 was solemnized on 03.11.2014 according to Hindu Rites and Customs.

7. On account of temperamental issues, certain disputes arose between the parties and they started living separately since January 2021. The dispute between the parties also led to registration of the present FIR.

8. During the pendency of the proceedings they arrived at a settlement, terms whereof were reduced in writing in the form of Compromise Deed dated 23.11.2023, copy of which is annexed as Annexure P-2 to the present petition.

9. It is a term of the compromise deed that the petitioner no.1 (husband) shall give two FDRs of Rs. 2.5 Lakhs each to the respondent no.2 and both will continue to stay together as husband and wife. It is also a term of the settlement that the respondent no.2 shall cooperate with the petitioner in quashing of the aforesaid FIR.



10. On a query put by this Court, the respondent no.2, who is present in court, affirms the factum of settlement and acknowledges having received the two FDRs and states that she has no objection in case the FIR is quashed.

11. The offences alleged in the FIR also include offence under Section 377 IPC. A Co-ordinate 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, 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.”

12. Needless to say that since the petitioner no. 1 and respondent no. 2 are husband and wife and they are now living together, the analogy of **Rifakat Ali** (supra) will squarely apply to the offence under Section 377 IPC in the present case.

13. In view of the fact that the parties have arrived at a settlement, no useful purpose will be served in continuing the proceedings, rather the same would create further acrimony between them.

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



15. Consequently, the petition is allowed and the FIR No. 309/2021 under Sections 498A/406/377/34 IPC registered at P.S. Shahdara and all consequential proceedings emanating therefrom, are quashed.
16. The petition stands disposed of in the above terms.
17. Order be uploaded on the website of this court

VIKAS MAHAJAN, J

DECEMBER 18, 2024/N.S. ASWAL