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

+ **W.P.(CRL) 785/2023 & CRL.M.A. 7223/2023**

SURENDER KUMAR

.....Petitioner

Through: **Ms. Rajni Kant, Advocate**

versus

STATE THROUGH SHO PS MEHRAULI & ANR.Respondents

Through: **Mr. Sanjay Lao, Standing Counsel for the State with SI Vinod Bhati, PS Mehrauli**

Mr. Garauv Sharma, Advocate (DHCLSC) with Ms. Aakansha Sharma, Mr. Randeep Singh Gumber, Advocates for R-2 with R-2 in person

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

25.08.2025

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1. The present petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973¹ seeks quashing of FIR. No. 197/2018 for offences under Sections 498A/406/34 of the Indian Penal Code, 1860² registered at P.S. Mehrauli as well as all consequential proceedings emanating therefrom.

2. The factual matrix, briefly stated, is as follows: The Complainant/Respondent No. 2 married the Petitioner on 27th February, 2016 as per Hindu rites and customs. On 28th March, 2018, the impugned

¹ "Cr.P.C"

² "IPC"



FIR was registered pursuant to a complaint lodged by the Complainant at the CAW Cell, South District. In her complaint, the Complainant alleged that a few months after marriage, she was subjected to harassment and cruelty by the Petitioner and his family members on account of dowry demands. She further stated that she gave birth to a daughter on 2th February, 2017, who, owing to liver and kidney complications, unfortunately passed away on 6th February, 2017. According to the Complainant, during this period of distress, her in-laws failed to provide her any support. She also alleged that on 10th May, 2016, the Petitioner physically assaulted her.

3. During the course of investigation, both parties were referred for counselling. Pursuant thereto, a Settlement Deed dated 10th August, 2018 was executed before the Counselling Cell, Family Court, Karkardooma, Shahdara, Delhi. In terms thereof, the Complainant agreed to resume cohabitation with the Petitioner at her matrimonial home and further undertook to withdraw the impugned FIR as well as all complaints under Section 125 of Cr.P.C and Section 12 of the Domestic Violence Act, 2005.

4. Pursuant to the settlement, the Complainant's statement was recorded before the Family Court on 29th August, 2018, affirming that the matter stood amicably resolved and that she had in fact rejoined the Petitioner on 12th August, 2018. The reconciliation appeared genuine as the parties resumed marital life, and the Complainant soon conceived again, giving birth to their second daughter. Meanwhile, however, the investigation into the impugned FIR proceeded independently, culminating in a chargesheet against the Petitioner for offences under Sections 498A/406/34 of IPC, though no arrest was made. The resolution was short-lived and by December 2019, renewed discord prompted Complainant to once again leave the



matrimonial home, along with her child.

5. Against this background, counsel for the Petitioner advances the following submissions for quashing of the impugned FIR:

5.1 The impugned FIR is baseless and unfounded. Contrary to the allegations contained in the FIR, it was the Petitioner who faced persistent abuse at the hands of the Complainant. In this regard, reliance is placed on the Petitioner's prior complaint lodged with the SHO, P.S. Jagatpuri on 2nd April, 2017, recorded as DD No. 28-B, wherein he detailed the quarrelsome behaviour of Respondent No. 2 and the insults meted out to his aged mother. This, it is submitted establishes that the impugned FIR was a retaliatory measure rather than a genuine account of matrimonial cruelty.

5.2. Nonetheless, disputes between the parties stood amicably resolved before the Counselling Cell, Karkardooma Courts, culminating in a Settlement Deed dated 10th August, 2018, pursuant to which the Complainant voluntarily resumed cohabitation with the Petitioner and even agreed to quashing of the impugned FIR. This reconciliation, evidences that the earlier allegations pursued were not *bona fide* and that the continuation of criminal proceedings would serve no useful purpose.

5.3. The marital discord between parties stems from incompatibility and temperamental differences, and the present matter is essentially one of "irretrievable breakdown of marriage" which has been unnecessarily given a criminal complexion, thereby misusing the penal provisions under Sections 498A and 406 of IPC.

5.4. The Petitioner has been regularly paying *ad-interim* maintenance as per court orders in the Domestic Violence case (Ct. No. 1696/2021, titled *Lata v. Surender Kumar & Anr.*), and in the maintenance proceedings (Mt.



No. 21/2022, titled *Lata & Anr. v. Surender Kumar*). This, demonstrates the Petitioner's *bona fides* and his willingness to shoulder his legal responsibilities, notwithstanding the ongoing matrimonial disputes.

5.5. The specific allegation of physical assault dated 10th May, 2016, is unsubstantiated. Though, the Complainant claims to have called the police, no action followed, nor was any medical examination conducted to corroborate the allegation. In the absence of contemporaneous material or corroboration, it is urged, the essential ingredients of the offence are not made out. At most, the incident reflects a domestic altercation, falling short of the threshold necessary to attract the alleged penal consequences.

6. *Per Contra*, counsel for the Complainant make the following submissions:

6.1 The allegation of physical assault on 10th May, 2016 cannot be brushed aside. The Complainant has consistently maintained that she was assaulted by the Petitioner with the active support of his family members. Though she did call the police from Jagatpuri, the failure of the police to register a case or conduct her medical examination does not, by itself, render the incident non-existent. The Petitioner's portrayal of the episode as a mere quarrel is self-serving and an attempt to dilute the serious physical abuse to which the Compliant was subjected to.

6.2 The Petitioner deserted the Complainant and failed to provide maintenance for her and their child. The Complainant, despite residing with her aged parents and lacking an independent source of income, sought to preserve the marriage and even returned to the matrimonial home in good faith. However, instead of reconciliation, she was met with continued disrespect, lack of financial support, and constant taunts, including being



blamed for the birth of a girl child. Such conduct, it is argued, squarely constitutes cruelty within the meaning of Section 498A of IPC and amply justifies the registration of the impugned FIR. The mere fact that the Complainant resumed cohabitation at one stage does not amount to waiver of her legal rights or extinguish her grievances, which remain valid and actionable.

7. The Court has carefully considered the foregoing facts and submissions. It is well settled that the scope of jurisdiction under Section 482 of Cr.P.C. is limited: quashing can be exercised only where the allegations, even if accepted at face value, do not disclose any offence, are inherently improbable, or where the proceedings are clearly tainted with *mala fides*. This is not a stage to undertake a roving enquiry into disputed facts or to evaluate defences advanced. Tested on this touchstone, the Court is of the view, that the impugned FIR and chargesheet *prima facie* do reveal ingredients of the alleged offences of cruelty and criminal breach of trust reflected in allegations of harassment, physical assault, and coercive conduct linked to dowry demands.

8. The Complainant is a homemaker with no independent income, presently caring for a minor daughter. The Petitioner professes no willingness to resume cohabitation. In this background, the claim of “irretrievable breakdown of marriage” or reference to past reconciliation attempts cannot negate the substance of the allegations. Offences under Section 498A of IPC and related provisions are often continuing in nature; they do not cease to exist merely because the parties may have temporarily reconciled or entered into a past settlement.

9. The Petitioner’s reliance on the 2018 settlement and subsequent



cohabitation is, therefore, insufficient to seek quashing of the impugned FIR. In such matters, quashing is not justified on the sole basis of earlier settlements unless the agreement is genuine, comprehensive, voluntary, and remains operative. Given that the Complainant asserts the settlement was not honoured, that cruelty persisted, and that she had to again leave the matrimonial home, no subsisting or conclusive settlement can be said to exist.

10. Disputes concerning the 2018 settlement, return of *stridhan*, and the incident of 10th May 2016 are factual matters to be adjudicated during trial, and not at the stage of quashing. Likewise, the Petitioner's reliance on collateral materials, such as his prior complaint against the Complainant, compliance with orders of interim maintenance, or the absence of an MLC, are matters of defence to be tested before the Trial Court. These do not, at the threshold, make the impugned FIR inherently false, nor can the Court under Section 482 undertake a mini-trial to assess credibility or probabilities.

11. Accordingly, this Court is of the opinion that no subsisting settlement exists to justify quashing of the impugned FIR, and the allegations, being continuing in nature, *prima facie* disclose cognizable offences. The Petitioner's objections pertain to issues to be adjudicated at the trial stage and, therefore, the case does not merit interference at the threshold of Section 482 of Cr.P.C. Accordingly, the present petition is dismissed along with pending application(s).

12. It is clarified that nothing stated herein shall be construed as an expression on the merits of the case. The Trial Court shall proceed in accordance with law and endeavour to expedite the proceedings, keeping all



rights and contentions of the parties open.

SANJEEV NARULA, J

AUGUST 25, 2025/ab