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

+ **W.P.(CRL) 2673/2024**

MUKESH MALIK & ANR.

.....Petitioners

Through: Mr. Prakash Kumar Singh, Mr. Vishnu Kant Pandey, Mr. Simanta Kumar and Mr. Bitu Kumar Singh, Advocates with Petitioner in person.

versus

THE STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Sanjay Lao, Standing Counsel (Crl.) for the State with Mr. Priyam Agrawal, Mr. Abhinav Kumar Arya, Advocates.
W/ASI Munesh, CAW Cell, East District, P.S. Shakarpur.
Mr. Hitesh Mehta, Mr. Parth Bharadwaj, Advocates for R-2.

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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15.02.2025

1. The present petition has been filed on behalf of the Petitioners under Article 226 of the Constitution of India seeking quashing of FIR No. 1430/2014 dated 15.07.2014 registered at P.S. Shakarpur, New Delhi for offences under Sections 354/376/377/328/506/34 of the Indian Penal Code, 1860 and Section 66-A of the Information Technology Act, 2000 ('IT Act').
2. The Petitioners are present in Court today and they have been identified by the learned counsel as well as by the I.O.



3. The perusal of FIR bearing no. 1430/2014 reflects that it was registered on the basis of complaint made by the Respondent no. 2, Aarti Sharma against Petitioner no. 1 and 2. Petitioner No. 1 was the husband of the Respondent No. 2. The Petitioner No. 2 is the brother-in-law (*Jija*) of Petitioner No. 1.

4. It is stated that the marriage between the Petitioner No. 1 and the Respondent No. 2 was solemnized on 21.01.2014 as per Hindu rites and ceremonies and no child was born from the said wedlock.

5. Learned counsel for the Petitioners states that the Petitioners have been falsely implicated in the present case. He states that the allegations arise in the backdrop of a matrimonial dispute between Respondent No.2 and Petitioner No.1, which led to the registration of another FIR 324 of 2015 as well inter-alia under section 498-A IPC, which has subsequently been quashed by this Court in a separate proceeding vide order 16.01.2024 in WP (Crl.) No. 2341/2023

5.1. He states that the present petition for quashing is also premised on the fact that marriage between petitioner No.1 and respondent No.2 has since been dissolved by an ex-parte decree dated 14.11.2018 passed in HMA No. 546/2018, in proceedings filed by Petitioner No.1, which decree has not been challenged by Respondent No.2 and has attained finality.

5.2. He further relies upon the affidavit of Respondent no. 2 which has been placed on record recording no objection of Respondent no. 2 for quashing the subject FIR.

5.3. He states a perusal of the FIR shows that Respondent No. 2 has alleged allegation for offences under Section 376 IPC, however, the said complaint is improbable, vague, and an abuse of the process of the law and, therefore, deserves to be quashed by this Court. He states that parties have been living



separately since 13.05.2014 and the complaint for which the present FIR arises was filed on 15.07.2014.

5.4. He states that Respondent no. 2, thereafter, again lodged an FIR bearing No. 324 of 2015 on 13.02.2015 under section 498/406/34 of IPC at PS Shakarpur, Delhi against the Petitioner No.1, Petitioner No.2 (Jija of Petitioner No.1) herein, her mother-in-law and sister-in-law (wife of Petitioner No.2), which stands quashed by this Court in a separate proceeding.

5.5. He states that perusal of the subject FIR firstly, shows that the alleged incident narrated in the FIR is without any date and time, secondly after the registration of the complaint, the complainant/Respondent no. 2 has not submitted her clothes for investigation. Thirdly, there is there no internal injury found in the medical examination. Fourthly, Respondent no. 2 has failed to inform the date of incident during the medical examination. Fifthly, the offence under Section 328 of IPC has been dropped in the charge order due to allegations being devoid of any scientific/medical proof. Sixthly, since past 10 years the alleged video and photographs referred to in the FIR have not been placed on record. And lastly, since the trial is still at the initial stage and no witness has been examined till date and Respondent no. 2 has withdrawn the allegations the trial is unlikely to yield any result. Therefore, in view of the aforesaid, if the Petitioners were to be prosecuted further in the matter it is unlikely that the present FIR will result in a conviction since there would be no evidence which could prove the said allegations levelled by Respondent no. 2 against the said Petitioners.

6. Learned ASC for the State submits that allegation alleged in the FIR are serious in nature. On a query put by the Court, she fairly concedes that there is no independent evidence to support the allegations and contradictions in the



complaint filed by the Respondent no.2. She confirms that no photographs or videos as alleged in the FIR were found by the IO.

6.1. She states charges have been framed against the Petitioner No.1 and 2 vide order dated 10.05.2023 by the learned Additional Sessions Judge, Karkardooma Courts, Delhi; and the trial is stated to be at the stage of prosecution evidence.

7. This Court has heard the parties and perused the record.

8. This petition is premised on a no-objection given by the complainant/respondent No. 2 vide affidavit dated 15.05.2024. On the last date of hearing i.e. this Court had interacted with Respondent no. 2, she had stated that this matter has been pending since 2014 and she is now looking to move forward with her life, including a possible re-marriage and she does not wish to pursue the matter any longer.

9. In the peculiar circumstances of this case though this Court, no doubt, is very mindful of the fact that the allegations levelled against the Petitioners involves a serious offence having grave punishment in case of conviction,, however, since Petitioner no. 1 and Respondent No. 2 had a matrimonial discord and Respondent no. 2 does not wish to pursue her complaint any further and has decided to settle all their disputes with the Petitioners, this Court is of the view that no useful purpose would be served in continuing the proceedings, rather the same would create further acrimony between them. This Court has also considered the submissions of the Petitioners that the filing of the present FIR is linked with the matrimonial disputes between Respondent no.2 and the family of Petitioner no. 1. The absence of any independent medical and scientific evidence to back the allegations of the Respondent no. 2 is a material fact since Respondent no. 2 is now



withdrawing her allegations. In the absence of Respondent no. 2's testimony there would be no evidence available with the prosecution to prove the case against the Petitioners.

10. It would be relevant to refer to the decision in **Luv Sharma & Ors. V. State & Anr.** in CRL.M.C.1603/2021 vide order dated 19.01.2022 wherein the Coordinate bench of this Court while exercising the power under Section 482 of CrPC had quashed the FIR registered for offences under Sections 376/377/354/506/509 of the IPC by the complainant against her in-laws on the basis of compromise entered into between the parties. The relevant portion of the said order reads as under:

“4... The present case arises out of a matrimonial dispute. This Court is pained to note that in matrimonial cases, there is an increasing tendency of filing such complaints for an offence under Section 376 IPC against the father-in-law, brother-in-law or any other male member of the family of the husband just to exert pressure on the family of the husband.

5. This Court is exercising its jurisdiction under Section 482 Cr.P.C. to quash the instant FIR in view of the settlement arrived at between the parties and in view of the fact that matrimonial disputes have been settled before the Delhi High Court Mediation & Conciliation Centre and the marriage stands dissolved. Even though there was an allegation of rape against the father-in - law of the complainant, this Court is of the opinion that no useful purpose would be served in continuing with the present proceedings...”

11. Guided by the aforesaid principles and the fact that the parties have amicably settled the matrimonial dispute and considering the chances of conviction of the Petitioners being remote and bleak, this Court is, therefore, of the view that there is no use continuing with proceedings of the present FIR as it would be misuse of the process of the Court and an unnecessary burden on the State exchequer. Further this Court is also of the considered opinion



that it is a fit case to exercise discretionary jurisdiction under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

12. In view of the above, the FIR No. 1430/2014 dated 15.07.2014 registered at Police Station Shakarpur, for offences under Sections 354/376/377/328/506/34 of the Indian Penal Code, 1860 and Section 66-A of the Information Technology Act, 2000 ('IT Act') and proceedings emanating therefrom are quashed.

13. The Respondent no. 2 has undertaken to pay costs of Rs. 15,000/- to Delhi High Court Legal Services Committee (DHCLSC) within three (3) weeks from today. It is ordered accordingly.

14. Accordingly, the petition is disposed of.

15. Pending applications, if any, are disposed of as infructuous.

16. A copy of the order be sent to the Trial Court.

17. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J

FEBRUARY 15, 2025/mt/ms

[Click here to check corrigendum, if any](#)