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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 9072/2024**
SUBHASH SHARMA & ORS.Petitioners
Through: Mr. P.K. Pandey and Mr. Sumit
Solanki, Advs.

versus

STATE OF NCT OF DELHI & ANR.Respondents
Through: Mr. Nawal Kishore Jha, APP for State
with SI Bharat Singh and SI Sumita
Sehrawat, PS. Uttam Nagar.
Mr. Saurav Sharma, Mr. Abhijat
Bhardwaj and Mr. Sidak S. Kalra,
Advs. for R-2.

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

% **ORDER**
28.01.2025

1. The present petition has been filed under Section 482 CrPC read with Section 528 BNSS, 2023 seeking quashing of FIR No.783/2021 under Sections 498A/406/34/377 IPC registered at Police Station Uttam Nagar and all consequential proceedings emanating therefrom on the ground that the parties have arrived at a settlement.
2. 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, the State has no objection in case the FIR in question is quashed.
3. The petitioner no.1 (former husband) and the petitioner nos. 2 to 4, who



are close relatives of petitioner no.1, as well as, the respondent no. 2 (former wife) are present in Court and they have been identified by their respective counsel, as well as, by the Investigating Officer SI Bharat Singh and SI Sumita Sehrawat, PS. Uttam Nagar.

4. The brief facts of the case are that the marriage between the petitioner no.1 and respondent no. 2 was solemnized on 23.02.2019 according to Hindu Rites and Customs. Out of the said wedlock, one girl child namely Niharika was born on 23.12.2019 aged about 04 years who is presently in the care and custody of the petitioner no.1.

5. On account of temperamental issues, certain disputes arose between the parties and they started living separately w.e.f. 30.01.2021. The dispute between the parties also led to the registration of present FIR.

6. During pendency of the proceedings, the parties have arrived at a settlement, terms whereof were reduced in writing in the form of Memorandum of Understanding dated 13.02.2024, which is annexed as Annexure D to the present petition.

7. In terms of the said settlement, the parties decided to dissolve their marriage by filing a petition for divorce by way of mutual consent. Accordingly, the petitioner no.1 and respondent no.2 have obtained a decree of divorce dated 05.07.2024 which is annexed as Annexure-P/1 to the present petition.

8. It is a term of the settlement between the parties that the petitioner no.1 shall pay a total sum of Rs.5 lacs to the respondent no.2 towards full and final settlement of all her claims on account of *streedhan*, permanent alimony, dowry articles, maintenance (past, present and future) etc. Out of the said amount, a sum of Rs. 4 lacs has already been paid by the petitioner no.1 to the



respondent no.2 in the manner as mentioned in the settlement. The remaining amount of Rs.1 lac has been paid to the respondent no.2 today in the Court by the petitioner no.1 by way of Demand Draft bearing No.500073 dated 14.01.2025 issued by ICICI Bank.

9. The receipt of entire amount of Rs.5 lacs is acknowledged by the respondent no.2, who is present in court.

10. The respondent no.2, on a query posed by the Court, states that she has no objection in case the FIR is quashed.

11. The offence alleged in the FIR is also 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, is 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. In view of the above legal position and regard being had to the fact that the parties have arrived at a settlement and in terms thereof have parted their ways and decided to move ahead in their lives, no useful purpose will be served in continuing the proceedings, rather the same would create further acrimony between them.

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



14. Consequently, the petition is allowed and the FIR No.783/2021 under Sections 498A/406/34/377 IPC registered at Police Station Uttam Nagar alongwith all other proceedings emanating therefrom, is quashed.
15. The petition stands disposed of in the above terms.
16. Order be uploaded on the website of this Court.

VIKAS MAHAJAN, J

JANUARY 28, 2025/dss