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

+ **W.P.(CRL) 3826/2024**

KAMAL UPADHYAY & ORS.

.....Petitioners

Through: Mr. Sandeep Gupta, Advocate with
Petitioners in person.

versus

STATE GOVT. OF NCT OF DELHI AND ANR.Respondents

Through: Mr. Sanjay Lao, Standing Counsel
(Crl.) for State with Mr. Aryan
Sachdeva and Mr. Abhinav Kumar
Arya, Advocates
SI Naveen Kumar, PS Madhu Vihar.
Ms. Kanchan Lata Barnwal, Advocate
for R-2 with R-2 in person.

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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19.02.2025

1. The present petition under Article 226 of the Constitution of India read with Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) has been filed seeking quashing of FIR No. 0131/2020 dated 17.04.2020 registered at Police Station (P.S.) Madhu Vihar for offences punishable under Section 498-A/406/34 of the Indian Penal Code, 1860 (IPC) and proceedings emanating therefrom.
2. The subject FIR has been filed on the complaint of Respondent No. 2. Petitioner No. 1 is the husband, Petitioner No. 2 is the mother-in-law and Petitioner No. 3 is the sister-in-law of Respondent No. 2.
3. It is the case of the Petitioners that the parties have amicably settled all their disputes. It is stated that as per the settlement between the parties, a



sum of Rs. 12,00,000/- was payable to Respondent No. 2 towards her permanent alimony.

4. Petitioner Nos. 1, 2 and 3, who are present in Court have been duly identified by their counsel and the Investigating Officer ('I.O').

5. Respondent No. 2, as well is present in Court, has been duly identified by her counsel and the I.O.

6. Learned counsel for the Petitioners states that the disputes between the parties arise out of a matrimonial relationship between Petitioner No. 1 and Respondent no. 2. He states that no child has been born out of this wedlock.

6.1. He states that parties have amicably resolved their disputes and the terms of the settlement are set out in this writ petition at paragraph no. 4 at pages 8 to 10.

6.2. He states that parties have dissolved their marriage by obtaining a decree of divorce dated 04.08.2022 by way of a mutual consent and the same has been placed on record as Annexure P-2 to this petition.

6.3. He states that an amount of Rs. 12,00,000/- was agreed to be paid over to Respondent No. 2 towards her permanent alimony and the same already stands paid.

6.4. He states in addition to the Petitioners herein, Petitioner No. 1's father, Mr. Kailash Chander Upadhyay was also an accused in the subject FIR. However, Petitioner's father has since passed away and the death certificate is on record as Annexure P-4 to this Petition.

7. This Court has interacted with Respondent No. 2. Respondent No. 2 confirms executing the affidavit dated 14.11.2024 in support of this petition recording her no objection to the quashing of the subject FIR. She states that



she has received the entire payment of Rs. 12,00,000/- and joins the request of the Petitioner for quashing of the subject FIR. She confirms the terms of the settlement set out in the petition.

8. Learned standing counsel states that though a draft charge-sheet has been prepared, however, the same has not been filed in this matter.

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

10. The Supreme Court in **Jitendra Raghuvanshi and Others v. Babita Raghuvanshi and Another**¹, held that for the purpose of securing ends of justice, the Court can quash the criminal proceedings even in non-compoundable offences pertaining to matrimonial disputes, if the Court is satisfied that parties have settled the disputes amicably and without any pressure. The relevant paragraphs of the said judgment are noted as under: -

“14. The inherent powers of the High Court under Section 482 of the Code are wide and unfettered. In *B.S. Joshi* [(2003) 4 SCC 675 : 2003 SCC (Cri) 848] , this Court has upheld the powers of the High Court under Section 482 to quash criminal proceedings where dispute is of a private nature and a compromise is entered into between the parties who are willing to settle their differences amicably. We are satisfied that the said decision is directly applicable to the case on hand and the High Court ought to have quashed the criminal proceedings by accepting the settlement arrived at.

15. In our view, it is the duty of the courts to encourage genuine settlements of matrimonial disputes, particularly, when the same are on considerable increase. Even if the offences are non-compoundable, if they relate to matrimonial disputes and the Court is satisfied that the parties have settled the same amicably and without any pressure, we hold that for the purpose of securing ends of justice, Section 320 of the Code would not be a bar to the exercise of power of quashing of FIR, complaint or the subsequent criminal proceedings.

16. There has been an outburst of matrimonial disputes in recent times. The institution of marriage occupies an important place and

¹ (2013) 4 SCC 58



it has an important role to play in the society. Therefore, every effort should be made in the interest of the individuals in order to enable them to settle down in life and live peacefully. If the parties ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law, in order to do complete justice in the matrimonial matters, the courts should be less hesitant in exercising their extraordinary jurisdiction. It is trite to state that the power under Section 482 should be exercised sparingly and with circumspection only when the Court is convinced, on the basis of material on record, that allowing the proceedings to continue would be an abuse of process of court or that the ends of justice require that the proceedings ought to be quashed. We also make it clear that exercise of such power would depend upon the facts and circumstances of each case and it has to be exercised in appropriate cases in order to do real and substantial justice for the administration of which alone the courts exist. It is the duty of the courts to encourage genuine settlements of matrimonial disputes and Section 482 of the Code enables the High Court and Article 142 of the Constitution enables this Court to pass such orders.”

(Emphasis Supplied)

11. Keeping in view the nature of the dispute and the fact that the parties have amicably settled the 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 purpose in 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 BNSS.

12. In view of the above, the FIR No. 0131/2020 dated 17.04.2020 registered at P.S. Madhu Vihar for offences under Sections 498-A/406/34 of the Indian Penal Code, 1860 and proceedings emanating therefrom are quashed.

13. Parties shall abide by the terms of settlement set out in this writ



petition.

14. 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 19, 2025/mt/MG

Click here to check corrigendum, if any