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IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment reserved on : 15.12.2025
Judgment pronounced on : 09.01.2026
+ **CRL.M.C. 1596/2020 & CRL.M.A. 9756/2020**

ABHISHEK KUMAR

.....Petitioner

versus

STATE OF NCT OF DELHI & ANR

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Shailendra Singh, Adv.

For the Respondents : Mr. Sunil Kumar Gautam, APP for the State with SI Vivek Kumar, PS GK-I.
Mr. Akshay Chandra, Mr. Bharat Sharma, Ms. Radhika Seth, Ms. Vipasana Bubna and Mr. Anubhav Upadhyay, Advs. for R-2.

CORAM

HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 ('CrPC') seeking setting aside of the order dated 13.05.2019 passed by the learned Magistrate in Case No. 1353/2019 and quashing of FIR No.109/2019 dated 16.05.2019 at



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Police Station Greater Kailash under Sections 498A/406/34 of the Indian Penal Code, 1860 ('IPC').

2. The brief facts of the case are as follows:

- i. The marriage between the petitioner and Respondent No.2 was solemnized as per Hindu rites and rituals at New Delhi on 10.02.2012. It is alleged that the petitioner and his family members made various demands of luxury gifts for themselves and their guests at the time of the wedding, which were fulfilled by the family of Respondent No.2. It is alleged that all the wedding functions were organised and paid for by the family of Respondent No.2.
- ii. It is alleged that Respondent No.2 was gifted 48 tolas gold and diamond jewellery worth ₹60 lakhs by her family, which she was compelled to hand over to the mother of the petitioner at the pretext of safekeeping. It is alleged that the said jewellery is still with the family of the petitioner.
- iii. It is alleged that since the petitioner and Respondent No.2 were going to live in Canada after their wedding, the family of the petitioner demanded ₹20 lakhs from the family of Respondent No.2, stating that Canada was too expensive. It is alleged that the father of Respondent No.2 paid the said amount to the petitioner's family in cash.



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- iv. It is alleged that the petitioner and Respondent No.2 left for their honeymoon on 19.02.2012 and returned on 29.02.2012. It is alleged that after returning from the honeymoon, Respondent No.2 met with further demands of cash and jewellery at the hands of the petitioner and his family. It is alleged that on 02.03.2012, the petitioner and his family members asked Respondent No.2 to get US \$30,000/- from her father, for a house in Canada and the same was paid by her father.
- v. It is alleged that thereafter the petitioner and Respondent No.2 left for Canada and started residing there. It is alleged that the petitioner detained the passport of Respondent No.2, which was released to her with the interference of Canadian Police. It is alleged that due to the petitioner's abnormal behavior he was removed from his job in Canada. However, the petitioner and his family blamed Respondent No.2 for the same, stating that she brought bad luck to their family.
- vi. It is alleged that the petitioner would constantly abuse and torture Respondent No.2 in Canada for not bringing enough money as dowry. It is alleged that the petitioner would force Respondent No.2 to do all the household chores and never gave her any money for personal expenses. It is alleged that on 15.06.2012, the petitioner's mother and brother visited Canada and blamed Respondent No.2 for the petitioner's bad luck, demanding ₹20 lakhs from her father. It is alleged that when the



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father of Respondent No.2 refused to pay the same, the petitioner abused him and also Respondent No.2.

- vii. It is alleged that on 06.12.2012, when Respondent No.2 returned to Canada from a trip to India, the petitioner did not allow her to enter the house stating that he could not live with her. It is alleged that the petitioner only allowed Respondent No.2 to enter the house when the caretaker of the building threatened to call the police. It is alleged that Respondent No.2 was so mentally traumatised that she attempted to commit suicide on 14.12.2012 and the said matter was reported to Toronto Police. It is alleged that on 20.12.2012, the petitioner was abusing the father of Respondent No.2 over the phone, hearing which Respondent No.2 threatened to kill herself. It is alleged that hearing the same, the petitioner got scared and called the Toronto Police. It is alleged that the Toronto Police made Respondent No.2 speak to a counsellor who advised her to report the petitioner's behavior to the police.
- viii. It is alleged that the petitioner would constantly abuse and hit Respondent No.2 and forced her to perform unnatural sex. It is alleged that on 28.07.2013, the petitioner gave beatings to Respondent No.2, who in turn called the Toronto Police. It is alleged that Toronto Police arrested the petitioner and issued a restraining order against him.



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- ix. It is alleged that on 10.10.2013, Respondent No.2 received a divorce petition which was decided *ex parte* in favour of the petitioner as Respondent No.2 could not afford a lawyer in Canada. It is alleged that the petitioner malafidely filed the said petition knowingly that the said case is illegal and without any jurisdiction.
- x. It is alleged that Respondent No.2 returned to India on 07.03.2015 as she was extremely depressed due to the acts of the petitioner and his family. It is alleged that families of both the parties met to amicably settle the matter, however, the family of the petitioner refused to return the jewellery and stridhan of Respondent No.2. It is alleged that thereafter Respondent No.2 returned to Canada on 30.03.2015.
- xi. It is alleged that Respondent No.2 filed a complaint against the petitioner which was referred to CAW cell on 19th December, 2016. It is alleged that the statement of Respondent No.2 was recorded on 04.02.2017. It is alleged that the petitioner and his family never appeared before the CAW cell, however the said case was closed. It is alleged that pursuant to a request letter by Respondent No. 2's father dated 13.06.2017, the said complaint was reopened but no action was taken.
- xii. Respondent No.2 filed an application before the learned Magistrate under Section 156(3) of the CrPC. The learned Magistrate noted that the complaint given by Respondent No.2



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was closed in the CAW Cell as the parties were stated to be divorced in the year 2015 in Canada. It was noted that Respondent No.2 contended that she had never submitted to the jurisdiction of Courts in Canada after getting married to the petitioner in Delhi on 10.02.2012. The learned Magistrate placed reliance on ***Pritam Ashok Sadaphule Vs Himachum : 2013 (200) DLT 374*** and noted that the complaint of Respondent No.2 discloses commission of cognizable offences and directed the concerned SHO to direct register an FIR on the complaint of Respondent No.2 and directed further investigation.

3. The learned counsel for the petitioner submitted that the registration of the subject FIR is an abuse of the process of Court and the same ought to be quashed. He submitted that the order dated 13.05.2019 passed by the learned Magistrate directing investigation is wholly illegal and perverse and ought to be set aside.

4. He submitted that the petitioner and Respondent No.2 were permanent residents and domiciled in Canada when the matrimonial disputes arose between the parties. He submitted that the petitioner and Respondent No.2 separated on 28.07.2013 and the petitioner shifted out of their matrimonial home while Respondent No.2 continued to reside there.



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5. He submitted that Respondent No.2 pressed false and frivolous charges of domestic violence upon the petitioner which were investigated by the authorities in Canada and post investigation the charges were withdrawn on 09.04.2014.

6. He submitted that on 28.05.2014, Respondent No.2 offered to settle and consented to divorce. He submitted that the consent to settlement of the petitioner and Respondent No.2 was indicated in a document dated 28.01.2015, which was signed by Respondent No.2 and her lawyer.

7. He submitted that there was consent for settlement between the parties, a divorce order was passed by the Superior Courts of Justice in Canada. He submitted that the said order itself specifies that if any of the parties are aggrieved then an appeal can be filed within 30 days of the order. He submitted that Respondent No.2 had accepted the order of divorce and had not filed any appeal against the same.

8. He submitted that consequently, Respondent No.2 had sent by way of email dated 09.07.2015 an acceptance of settlement. He submitted that thereafter, Respondent No.2 had consented to final settlement dated 13.03.2016, the final settlement took place on 15.03.2016 and the certificate of divorce was obtained on 24.07.2015. He submitted that the petitioner had paid all the dues to Respondent No.2 in accordance with the settlement.



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9. He submitted that after the entire aforesaid process had taken place, Respondent No.2 filed a complaint against the petitioner on 06.12.2016 in Delhi. He submitted that the CAW Cell after perusing all the materials and examining the parties had closed the said complaint on 10.05.2017. He submitted that the case was reopened pursuant to a request letter dated 13.06.2017 and was closed once again after reexamination on 27.12.2017.

10. He submitted that Respondent No.2 made a third complaint to the CAW Cell on 20.04.2018 and the same was also closed on 05.10.2018. He submitted that the parties had already resolved all their disputes by mutual consent and the same has been the foundation of cancellation of the complaints before the CAW Cell.

11. He submitted that Respondent No.2 made another complaint to the SHO, PS Greater Kailash on 17.11.2018 and immediately, on 27.11.2018, filed an application under Section 156(3) of the CrPC before the learned Magistrate, pursuant to which the learned Magistrate directed registration of the subject FIR and to initiate investigation.

12. *Per Contra*, the learned Additional Public Prosecutor for the State and the learned counsel for Respondent No.2 vehemently opposed quashing of the subject FIR and submitted that the order dated 13.05.2019 suffers from no infirmity.



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13. The learned counsel for Respondent No.2 submitted that bare reading of the allegations in the complaint of Respondent No.2 clearly discloses commission of cognizable offences and the learned Magistrate rightly directed registration of FIR

14. He submitted that the alleged divorce obtained by the petitioner is not valid in law since it is conclusive from the facts of the case that Respondent No.2 never subjected herself to the jurisdiction of the Superior Court of Justice, Canada.

15. He submitted that the email dated 13.03.2016 sent by Respondent No.2 to the petitioner clearly reflects that she never submitted herself to the jurisdiction of the Superior Court of Justice, Ontario, Canada and that she was not in a position to represent herself due to monetary constraints.

16. He submitted that the offences were committed by the petitioner and other accused persons since before the marriage between him and Respondent No.2 took place. He submitted that the subject FIR cannot be quashed merely on the ground of alleged ex parte decree. He placed reliance on the judgments of this Court in *Neeraj Gupta v. CBI : (2007 (96) DRJ 380)* and *Pritam Ashok Sadaphule v. Hima Chugh : [2013 AIR (Del) 139]*



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Analysis

17. It is relevant to note that the petitioner has invoked the inherent jurisdiction of this Court seeking quashing of the present FIR. While this Court needs to exercise restraint in stifling prosecution, however, the inherent jurisdiction can be exercised if it is found that the continuance of criminal proceedings would be a clear abuse of process of law. The Hon'ble Apex Court, in the case of ***State of Haryana v. Bhajan Lal : 1992 Supp (1) SCC 335***, had illustrated certain categories of cases where the inherent jurisdiction can be exercised to prevent abuse of process of law and secure the ends of justice. The relevant portion of the judgment is reproduced hereunder:

“102...(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.



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(6) *Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*

(7) ***Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.***

(emphasis supplied)

18. The Hon'ble Apex Court in the case of ***Indian Oil Corporation v. NEPC India Limited and Others : (2006) 6 SCC 736*** has discussed the scope of jurisdiction under Section 482 of the CrPC to quash criminal proceedings. The relevant portion of the same is reproduced hereunder:

“12. The principles relating to exercise of jurisdiction under Section 482 of the Code of Criminal Procedure to quash complaints and criminal proceedings have been stated and reiterated by this Court in several decisions. To mention a few—Madhavrao Jiwajirao Scindia v. Sambhajirao Chandroji Rao Angre [(1988) 1 SCC 692 : 1988 SCC (Cri) 234] , State of Haryana v. Bhajan Lal [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , Rupan Deol Bajaj v. Kanwar Pal Singh Gill [(1995) 6 SCC 194 : 1995 SCC (Cri) 1059] , Central Bureau of Investigation v. Duncans Agro Industries Ltd. [(1996) 5 SCC 591 : 1996 SCC (Cri) 1045] , State of Bihar v. Rajendra Agrawalla [(1996) 8 SCC 164 : 1996 SCC (Cri) 628] , Rajesh Bajaj v. State NCT of Delhi [(1999) 3 SCC 259 : 1999 SCC (Cri) 401] , Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd. [(2000) 3 SCC 269 : 2000 SCC (Cri) 615] , Hridaya Ranjan Prasad Verma v. State of Bihar [(2000) 4 SCC 168 : 2000 SCC (Cri) 786] , M. Krishnan v. Vijay Singh [(2001) 8 SCC 645 : 2002 SCC (Cri) 19] and Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque [(2005) 1 SCC 122 : 2005 SCC (Cri) 283] . The principles, relevant to our purpose are:



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(i) A complaint can be quashed where the allegations made in the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out the case alleged against the accused.

For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.

(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with mala fides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.....”

(emphasis supplied)

19. It is true that in case it is found that the proceedings are manifestly frivolous or vexatious or are instituted with the ulterior motive of wreaking vengeance, this Court ought to look into the FIR with care and little more closely. The Court can look into the attending circumstances emerging from the record of the case and can read between the lines. If the allegations are far-fetched and it appears that the provisions of Section 498A of the IPC are misused, the Court can interfere while exercising powers under Section 482 of the CrPC [Ref. ***Mahmood Ali & Ors. v. State of U.P & Ors. : 2023 SCC OnLine SC 950; Abhishek v. State of Madhya Pradesh : 2023 SCC OnLine SC***



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1083 and *Kahkashan Kausar @ Sonam & Ors. v. State of Bihar & Ors.* : (2022) 6 SCC 599].

20. In the present case, it is the case of the prosecution that Respondent No.2 was subjected to cruelty and demands of dowry by the petitioner and his family members. It has been alleged that the petitioner and Respondent No.2 got married in Delhi, where the family of Respondent No.2 undertook all the expenses. It has been alleged that thereafter the parties started living in Canada. The majority of the allegations of cruelty and dowry have been alleged to have taken place in Canada. It has been alleged that the petitioner took an Ex-Parte divorce from Respondent No.2 in Canada even though she had never submitted to the jurisdiction of Courts in Canada. It has been alleged that the petitioner and his family have the stridhan and jewellery of Respondent No.2 in their possession and have refused to return the same.

21. At the very outset, it is pertinent to note that CAW Cell had closed the complaint of Respondent No.2 on three occasions noting that the parties had obtained divorce in Canada. It is the contention of the petitioner that the petitioner and Respondent No.2 had settled all their disputes and obtained divorce in Canada.

22. The learned Magistrate directed registration of the subject FIR *vide* order dated 13.05.2019 noting that Respondent No.2 never submitted to jurisdictions of the Courts in Canada and relying on the



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judgment of this Court in ***Pritam Ashok Sadaphule v. Himachum*** (*Supra*).

23. This Court in ***Pritam Ashok Sadaphule v. Himachum*** (*Supra*) placing reliance on the judgment of the Hon'ble Apex Court in ***Y Narsimha Rao and Ors. v. Y. Venkata Lakshmi & Anr. : (1991) 3 SCC 451*** had observed that unless the parties voluntarily and effectively submitted to the jurisdiction of the foreign court and contested the claim which is based on the grounds available in the matrimonial law under which the parties were married, the judgment of the foreign court cannot be relied upon. The relevant paragraphs of the judgment have been reproduced below:

11. The Supreme Court in Y Narsimha Rao and ors v. Y. Venkata Lakshmi (supra) declined to give its imprimatur to foreign decree which did not take into consideration the provisions of Hindu Marriage Act under which the parties were married. The Supreme Court while interpreting Section 13 of CPC has held that unless the respondent voluntarily and effectively submitted to the jurisdiction of the foreign court and contested the claim which is based on the grounds available in the matrimonial law under which the parties were married, the judgment of the foreign court could not be relied upon. The relevant portion of the judgment of the Supreme Court is reproduced as under:-

12. We believe that the relevant provisions of Section 13 of the Code are capable of being interpreted to secure the required certainty in the sphere of this branch of law in conformity with public policy, justice, equity and good conscience, and the rules so evolved will protect the sanctity of the institution of marriage and the unity of family which are the corner stones of our societal life.

Clause (a) of Section 13 states that a foreign judgment shall not be recognised if it has not been pronounced by a court



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of competent jurisdiction. We are of the view that this clause should be interpreted to mean that only that court will be a court of competent jurisdiction which the Act or the law under which the parties are married recognises as a court of competent jurisdiction to entertain the matrimonial dispute. Any other court should be held to be a court without jurisdiction unless both parties voluntarily and unconditionally subject themselves to the jurisdiction of that court. The expression "competent court" in Section 41 of the Indian Evidence Act has also to be construed likewise.

Clause (b) of Section 13 states that if a foreign judgment has not been given on the merits of the case, the courts in this country will not recognise such judgment. This clause should be interpreted to mean (a) that the decision of the foreign court should be on a ground available under the law under which the parties are married, and (b) that the decision should be a result of the contest between the parties. The latter requirement is fulfilled only when the respondent is duly served and voluntarily and unconditionally submits himself/herself to the jurisdiction of the court and contests the claim, or agrees to the passing of the decree with or without appearance. A mere filing of the reply to the claim under protest and without submitting to the jurisdiction of the court, or an appearance in the Court either in person or through a representative for objecting to the jurisdiction of the Court, should not be considered as a decision on the merits of the case. In this respect the general rules of the acquiescence to the jurisdiction -of the Court which may be valid in other matters and areas should be ignored and deemed inappropriate.

The second part of Clause (c) of Section 13 states that where the judgment is founded on a refusal to recognise the law of this country in cases in which such law is applicable, the judgment will not be recognised by the courts in this country. The marriages which take place in this country can only be under either the customary or the statutory law in force in this country. Hence, the only law that can be applicable to the matrimonial disputes is the Cine under which the parties are married, and no other law. When, therefore, a foreign judgment is founded on a jurisdiction



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or on a ground not recognised by such law, it is a judgment which is in defiance of the Law. Hence, it is not conclusive of the matters adjudicated therein and, therefore, unenforceable in this country. For the same reason, such a judgment will also be unenforceable under Clause (f) of Section 13, since such a judgment would obviously be in breach of the matrimonial law in force in this country.

Clause (d) of Section 13 which makes a foreign judgment unenforceable on the ground that the proceedings in which it is obtained are opposed to natural justice, states no more than an elementary principle on which any civilised system of justice rests. However, in matters concerning the family law such as the matrimonial disputes, this principle has to be extended to mean something more than mere compliance with the technical rules of procedure. If the rule of audi alteram partem has any meaning with reference to the proceedings in a foreign court, for the purposes of the rule it should not be deemed sufficient that the respondent has been duly served with the process of the court. It is necessary to ascertain whether the respondent was in a position to present or represent himself/herself and contest effectively the said proceedings. This requirement should apply equally to the appellate proceedings if and when they are filed by either party. If the foreign court has not ascertained and ensured such effective contest by requiring the petitioner to make all necessary provisions for the respondent to defend including the costs of travel, residence and litigation where necessary, it should be held that the proceedings are in breach of the principles of natural justice. It is for this reason that we find that the rules of Private International Law of some countries insist, even in commercial matters, that the action should be filed in the forum where the defendant is either domiciled or is habitually resident. It is only in special cases which is called special jurisdiction where the claim has some real link with other forum that a judgment of such forum is recognised. This jurisdiction principle is also recognised by the Judgments Convention of this European Community. If, therefore, the courts in this country also insist as a matter of rule that foreign matrimonial judgment will be recognised only if it is of the forum where the respondent is



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domiciled or habitually and permanently resides, the provisions of Clause (d) may be held to have been satisfied.

The provision of Clause (e) of Section 13 which requires that the courts in this country will not recognise a foreign judgment if it has been obtained by fraud, is self-evident. However, in view of the decision of this Court in Smt. Satya v. Teja Singh (supra) it must be understood that the fraud need not be only in relation to the merits of the matter but may also be In relation to jurisdictional facts.

13. From the aforesaid discussion the following rule can be deduced for recognising foreign matrimonial judgment in this country. The jurisdiction assumed by the foreign court as well as the ground on which the relief is granted must be in accordance with the matrimonial law under which the parties are married. The exceptions to this rule may be as follows: (i) where the matrimonial action is filed in the forum where the respondent is domiciled 01 habitually and permanently resides and the relief is granted on a ground available in the matrimonial law under which the parties are married; (ii) where the respondent voluntarily and effectively submits to the jurisdiction of the forum as discussed above and contests the claim which is based on a ground available under the matrimonial law under which the parties are married; (iii) where the respondent consents to the grant of the relief although the jurisdiction of the forum is not in accordance with the provisions of the matrimonial law of the parties.

The aforesaid rule with its stated exceptions has the merit of being just and equitable. It does no injustice to any of the parties. The parties do and ought to know their rights and obligations when they marry under a particular law. They cannot be heard to make a grievance about it later or allowed to bypass it by subterfuges as in the present case. The rule also has an advantage of rescuing the institution of marriage from the uncertain maze of the rules of the Private international Law of the different countries with regard to jurisdiction and merits based variously on domicile, nationality, residence permanent or temporary or ad hoc forum, proper law etc. and ensuring certainly in the most vital field of national life and conformity with public



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policy. The rule further takes account of the needs of modern life and makes due allowance to accommodate them. Above all, it gives protection to women, the most vulnerable section of our society, whatever the strata to which they may belong. In particular it frees them from the bondage of the tyrannical and servile rule that wife's domicile follows that of her husband and that it is the husband's domiciliary law which determines the jurisdiction and judges the merits of the case.

12. It is admitted position that both the parties are Indians and marriage between them was solemnised at New Delhi according to Hindu rites and ceremonies and both are governed by Hindu Marriage Act, 1955. Their marriage has been dissolved by Ilford County Court in UK on the ground of having been broken down irretrievably which is not a ground for divorce under the Hindu Marriage Act. The Supreme Court in Y. Narasimha Rao and Ors vs. Y. Venkata Lakshmi and Anr. (supra) has already held that foreign decree of divorce granted on a ground which is not recognized in India.”

24. It is the contention of Respondent No.2 that she had never submitted to the jurisdiction of the Courts in Canada and therefore, the divorce decree dated 06.05.2015 is invalid.

25. The documents filed along with the petition and the Status Report filed before the learned Magistrate have been perused by this Court.

26. The petitioner had filed a divorce application before the Superior Court of Justice, Ontario, Canada on 16.12.2013 and Respondent No.2 had filed a reply to the same before the Superior Court of Justice, Ontario, Canada on 13.02.2014 where she made claims of temporary spousal support and temporary exclusive possession of the matrimonial home amongst others.



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27. It is pertinent to note that the petitioner and Respondent No. 2 both had signed a consent to divorce in the Superior Court of Justice, Canada on 28.05.2014 which expressly stated that “*Either party shall be at liberty to apply for a divorce on motion without notice.*”. On the basis of the said consent to divorce, the Superior Court of Justice, Ontario, Canada passed an order dated 28.05.2014 recording the same.

28. On 28.01.2015, Respondent No.2 consented to a settlement with the petitioner for sale of their matrimonial home wherein she would be paid C\$44,000/- and upon payment she shall release all claims against the petitioner arising out of or related to their marriage including inter alia, equalization of property, recovery of property and spousal support.

29. The Superior Court of Justice *vide* order dated 06.05.2015 noted that leave had been granted to either parties to apply for a divorce on motion without notice and ordered that the divorce between the parties shall take effect 31 days after the said order.

30. Offer to settle dated 08.05.2015 signed by Respondent No.2 indicates that Respondent No.2 and the petitioner understood and acknowledged that they were married under Hindu Marriage Act in India. It was noted in the settlement that upon payment of the settlement amounts the parties shall release each other from any claims arising out of or in any way connected with their marriage and separation.



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31. Email dated 09.07.2015 has been placed on record in which Respondent No.2 accepted the settlement offer of the petitioner and stated that she does not want to take the matter to trial. She further informs that she would not be available for the court dates and would be leaving the city on 12.07.2015.

32. Respondent No.2 via Email dated 13.03.2016, while replying to a document titled 'Applicants Cost Outline' had provided her bank account number for remittance of the sum which had been settled between the parties Respondent No.2 made allegations against the petitioner stating that her parents had given him \$30,000/- in cash and that he had physically and verbally assaulted her pursuant to which he had been charged for domestic violence. In her email, she had also pointed out various issues of distribution of assets and had left the matter to be decided by the Superior Court of Justice, Ontario, Canada. Respondent No.2 also stated that she has the right to seek redress and recovery against the petitioner under applicable penal and civil laws in India. Further, it had been stated that the legal aid program of Respondent No.2 had finished and she could not afford another lawyer and she had moved out of Toronto permanently.

33. The Superior Court of Justice, Ontario, Canada *vide* order dated 15.03.2016 taking note of the email correspondence dated 13.03.2016 passed an order regarding settlement between the parties allowing Respondent No.2 to move within 30 days for setting aside the



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settlement and directing the case for Trial. Respondent No.2 has not challenged the aforesaid order.

34. It is relevant to note that minutes of the meeting of the Family Welfare Committee dated 24.11.2017 have been placed on record in which the attorneys of both the parties have admitted that the marriage between the parties has already been dissolved by a decree of divorce passed by a competent court in Canada.

35. The status report filed before the learned Magistrate indicates that the complaint filed by Respondent No.2 was closed as the petitioner and Respondent No.2 had been residing in Canada since 2012 and had obtained divorce by mutual consent in 2015.

36. In view of the aforesaid facts, the contention of Respondent No.2 that she had never submitted to the jurisdiction of the Courts in Canada cannot be accepted, especially considering the fact that Respondent No.2 has signed a consent to divorce with the petitioner on 28.05.2014. Respondent No.2 has entered into settlement with the petitioner regarding settling of claims arising out of or in relation to their marriage. Moreover, the bank statements placed on record by the petitioner indicate that Respondent No.2 had been paid for the sale of the matrimonial house as per the settlement between the parties. Respondent No.2, even when disputing certain terms of distribution of assets with the petitioner in her email dated 13.03.2016 has



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specifically stated that she had left the matter to be decided by the Superior Court of Justice, Ontario, Canada.

37. Thus, the dictum laid down in *Pritam Ashok Sadaphule v. Himachum* (*Supra*) and *Neeraj Gupta v. CBI* (*Supra*) is not applicable to the facts of the present case as Respondent No.2 had clearly submitted to the jurisdiction of the Courts in Canada.

38. It is pertinent to note that all the allegations made by the petitioner in terms of cruelty committed upon her by the petitioner have been committed in Canada. Respondent No.2 had also filed a complaint against the petitioner for domestic violence in Canada, however, the charges against the petitioner were dropped. Additionally, regarding the allegations of Respondent No.2 entrusting her stridhan with the petitioner and the same not being returned, Respondent No.2 has signed a settlement dated 08.05.2015 with the petitioner in which it is specifically stated that all claims in relation to the marriage shall be released. Additionally, as per the correspondence between the parties at the time of divorce in Canada, Respondent No.2 has made no such claims except in email dated 13.03.2016 which seems like an afterthought after having obtained divorce. Moreover, Respondent No.2 in the aforesaid email claimed to retain her right to seek redressal and recovery of the money given by her family to the petitioner, which in the opinion of this Court would not entitle her to



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set criminal law in motion by invoking Section 498A of the IPC at a belated stage.

39. Perusal of the charge sheet shows that during the course of investigation, the statements of Respondent No.2' parents were recorded, who supported her case. The complainant had given an affidavit stating that as she was residing in Canada, her father would act as her representative. The complainant's father provided certain documents relating to marriage, including a photocopy of certain bills and list of stridhan, along with a copy of call made by the complainant regarding domestic violence. Apart from the same, no evidence was found during investigation to lend credence to the case of the prosecution and it is apparent from the charge sheet that the entire case of the prosecution is hedged only on the bald assertions made by the complainant and her family.

40. Even the charge sheet mentions that "*no sufficient evidence*" was found against the accused persons during investigation apart from the statement of the complainant, due to which, no arrest was made. It seems that the charge sheet has been filed by the prosecution merely because the learned Magistrate had ordered registration of FIR.

41. Undisputedly, while the police is duty bound to register an FIR if a cognizable offence is disclosed in the information given to the police, however, it is well settled that a preliminary inquiry is permissible before criminal law is set into motion in matrimonial



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disputes. The rationale behind the same is to curb lodging of frivolous cases emanating from petty family disputes and to prevent weaponizing of law [Ref. *Lalita Kumari v. Govt. of U.P. : (2014) 2 SCC 1*]. Despite the same, in the present case, the learned Magistrate has directed registration of FIR without considering that the complaints of Respondent No.2 and her father was closed *three* times by CAW on not finding sufficient evidence, merely because the complaint disclosed cognizable offences

42. Considering the aforesaid aspects, there is no grave suspicion against the petitioner and his family members in the present case for the offences under Sections 406/498A/34 of the IPC especially when the settlement was arrived at before the competent court in Canada and no such allegations were made at that stage. Perusal of the admitted material, as discussed above, warrants interference by this Court.

43. As noted above, the High Court in exercise of its jurisdiction under Article 226 of the Constitution of India or Section 482 of the CrPC can look into the attendant circumstances emerging from the record of the case to ascertain whether the allegations are far-fetched and quash the proceedings.

44. In the circumstances of the present case, continuation of proceedings against the petitioners would amount to an abuse of the process of law. In view of the above, the order dated 13.05.2019



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passed by the learned Magistrate in Case No. 1353/2019 is set aside and FIR No.109/2019 and all consequential proceedings arising therefrom are quashed.

45. The present petition is allowed in the aforesaid terms. Pending applications also stand disposed of.

AMIT MAHAJAN, J

JANUARY 09, 2026

DU

Signature Not Verified

Signed By: SANJAY
KUMAR
Signing Date: 10.01.2026
19:20:58

CRL.M.C. 1596/2020

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