

Netrapal @ Neetu And Ors vs State (Govt. Of Nct Of Delhi) And Anr on 25 May, 2022

Author: Anu Malhotra

Bench: Anu Malhotra

\$-45

*

+

IN THE HIGH COURT OF DELHI AT NEW DELHI
CRL.M.C. 2488/2022 & CRL.M.A. 10410/2022
NETRAPAL @ NEETU AND ORS.

..... Petitioners

Through: Counsel for the Petitioner
(Appearance not given).
Petitioner Nos.1 and 2 in-person.
Petitioner Nos. 4 to 6 not present.

versus

STATE (GOVT. OF NCT OF DELHI) AND ANR. Respondents
Through: Mr. Izhar Ahmad, APP for State with
SI Nipendra Kumar, PS Nand Nagari.
R-2 in-person with counsel -
Appearance not given.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% 25.05.2022 CRL.M.A. 10410/2022 (Ex.) Exemption allowed subject to all just exceptions. The application stands disposed of.

The Vakalatnama of the counsel for the respondent No.2 is on the record.

The deputed Investigating Officer of the case is present and has identified the petitioner No.1 present in Court as being the accused arrayed in column No. 11 of the charge sheet and has identified the petitioner No.2 present in Court as being the accused arrayed in column No.12 of the charge sheet and further states that petitioner Nos.3, 4 and 6 were also put in Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:26.05.2022 14:55:39 This file is digitally signed by PS to HMJ ANU MALHOTRA.

column No.12 of the charge sheet and that the petitioner No.5 was not chargesheeted. Inter alia, the deputed Investigating Officer of the case has also identified the respondent No.2 present in Court today as being the complainant of the FIR in question and further states that the charge sheet in the instant case FIR No.223/2013, PS Nand Nagri was filed under Sections 498A/406/34 of the Indian Penal Code, 1860 and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

Though there is no prayer for seeking the quashing of the FIR falling provision under Section 406 of the Indian Penal Code, 1860, in view of the factum that the petition is premised on a settlement dated 11.07.2019 between the petitioner No.1 and the respondent No.2, qua which the deposition of

the respondent No.2 has also been recorded, in the interest of justice, the petition is taken up as being the petition seeking the quashing of the FIR in toto qua the alleged commission of the offences punishable under Sections 498A/406/34 of the Indian Penal Code, 1860 read with Sections 3 and 4 of the Dowry Prohibition Act, 1961.

The respondent no.2 in her deposition on oath in replies to specific Court queries by the Court affirms having signed the settlement dated 11.07.2019 arrived at the Counselling Cell, Family Courts, Shahdara District, Karkardooma arrived at between her and the petitioner No.1 which she states that she has signed voluntarily of her own accord without any duress, coercion or pressure from any quarter and affirms the factum of dissolution of her marriage with the petitioner no.1 vide a decree of divorce through mutual consent under Section 13B(2) of the HMA, 1955 in HMA Petition No.977/2019 vide a decree dated 28.11.2019 of the Court of the Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:26.05.2022 14:55:39 This file is digitally signed by PS to HMJ ANU MALHOTRA.

learned Principal Judge, Family Court, Shahdara, Karkardooma, New Delhi and further affirms the receipt of the total settled sum of Rs.95,000/- from the petitioner No.1 out of which a sum of Rs.80,000/- had been received by her previously during the course of the proceedings under 13B(1) and 13B(2) of the HMA, 1955 and the balance sum of Rs.15,000/- has been received by her in cash from the petitioner No.1 during the course of the present proceedings. She inter alia states that there are no further claims of her left against the petitioners.

In reply to a further specific Court query, she states that there is a child born of the wedlock between her and the petitioner no.1 who is in her custody. She further states that she has made her statement to the effect that she does not oppose the prayer made by the petitioners seeking the quashing of the FIR in question nor does she want them to be punished in relation thereto voluntarily of her own accord without any duress, coercion or pressure from any quarter.

On behalf of the State, there is no opposition to the prayer made by the petitioners seeking the quashing of the FIR in question in view of the settlement arrived at between the parties and the deposition of the respondent no.2.

Taking into the account the deposition of the respondent No.2 and the settlement arrived at between the parties and as there appears no reason to disbelieve the statement made by the respondent no.2 that she has arrived at a settlement with the petitioner voluntarily of her own accord without any duress, coercion or pressure from any quarter, in as much as, the FIR has apparently emanated from a matrimonial discord between the petitioner Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:26.05.2022 14:55:39 This file is digitally signed by PS to HMJ ANU MALHOTRA.

No.1 and the respondent no.2 which has since been resolved by the dissolution of their marriage vide a decree of divorce through mutual consent, for maintenance of peace and harmony between the parties it is considered appropriate to put a quietus to the litigation between the parties in terms of the verdict of the Hon'ble Supreme Court in Narender Singh & Ors. V. State of Punjab; (2014) 6

SCC 466 wherein it has been observed vide paragraph 31(IV) to the effect:-

"31. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

(I)

(II)

(III)

(IV) On the other, those criminal cases having overwhelmingly and pre-dominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

....."

and in view of the observations of the Hon'ble Supreme Court in Gian Singh vs. State of Punjab & Another, (2012) 10 SCC 303, to the effect : -

"58..... No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:26.05.2022 14:55:39 This file is digitally signed by PS to HMJ ANU MALHOTRA.

crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power,

quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed." [Refer to B.S. Joshi, (2003) 4 SCC 675; Nikhil Merchant, (2008) 9 SCC 677 and Manoj Sharma, (2008) 16 SCC 1.]"

and in view of the verdict of the Hon'ble Supreme Court in Jitendra Raghuvanshi & Ors. Vs. Babita Raghuvanshi & Anr. (2013) 4 SCC 58, to the effect : -

Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:26.05.2022 14:55:39 This file is digitally signed by PS to HMJ ANU MALHOTRA.

"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. They institution of marriage occupies an important place and 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...."

(emphasis supplied), In view thereof, FIR No.223/2013, PS Nand Nagri, and all consequential proceedings emanating therefrom against the petitioner Nos.1, 2 to 4 and 6 with the petitioner No.5 having not been chargesheeted qua the Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:26.05.2022 14:55:39 This file is digitally signed by PS to HMJ ANU MALHOTRA.

alleged commission of offences punishable under Sections 498A/406/34 of the Indian Penal Code, 1860 read with Sections 3 and 4 of the Dowry Prohibition Act, 1961 are thus quashed.

It is however made expressly clear that despite the terms of the settlement document dated 11.07.2019 between the parties arrived at the Counselling Cell, Family Courts, Shahdara District, Karkardooma vide clause 8 thereof which reads to the effect:-

"8. It is agreed between the parties that the minor child namely Baby Laxmi age 8 yrs+ will be under the absolute legal custody of the petitioner. No visitation right to respondent in future for all the purposes.", the same shall not amount to any embargo on the minor child namely Laxmi born of the wedlock between the petitioner No.1 and the respondent No.2 seeking her claims for maintenance or otherwise against the petitioner No.1 and the respondent No.2 in accordance with law in view of the verdict of the Hon'ble Supreme Court in Civil Appeal 4031-4032/2019 arising out of SLP (C) Nos.32868-32869/2018 titled as Ganesh Vs. Sudhirkumar Shrivastava & Ors. vide the verdict dated 22.04.2019 as adhered to and followed by this Court in Rakesh Jain & Ors. vs. State & Anr. in CRL.M.C. 2935/2019 dated 06.09.2019.

The petition is disposed of accordingly.

ANU MALHOTRA, J MAY 25, 2022 ha Signature Not Verified Digitally Signed By:SUMIT GHAI
Signing Date:26.05.2022 14:55:39 This file is digitally signed by PS to HMJ ANU MALHOTRA.

IN THE HIGH COURT OF DELHI: NEW DELHI NETRAPAL @ NEETU AND ORS. versus STATE (GOVT. OF NCT OF DELHI) AND ANR.

25.05.2022 CW-1 Nipendra Kumar, PS Nand Nagari.

ON S.A. I have been deputed to attend the proceeding qua FIR No.223/2013, PS Nand Nagri, under Sections 498A/406/34 of the Indian Penal Code, 1860 read with Sections 3 and 4 of the Dowry Prohibition Act, 1961. There are five accused arrayed in the FIR.

I identify the petitioner No.1, Netrapal @ Neetu, who is present today in Court today, who has been put in column No.11.

I identify the petitioner No.2, Ram Prasad, who is present in Court today. The petitioner Nos.2, 3, 4 and 6 have all been put in column No.12 and have not been chargesheeted.

The petitioner No.5, Ved Prakash, is not an accused and has also not been chargesheeted.

I also identify the respondent no.2 Ms. Usha as being the complainant of the said FIR.

RO & AC
25.05.2022

ANU MALHOTRA,

Signature
Not Verified
Digitally Signed
By:SUMIT GHAI
Signing
Date:26.05.2022
14:55:39
This file is
digitally signed by
PS to HMJ ANU
MALHOTRA.

IN THE HIGH COURT OF DELHI: NEW DELHI NETRAPAL @ NEETU AND ORS. versus STATE (GOVT. OF NCT OF DELHI) AND ANR.

25.05.2022 CW-2 Ms. Usha, D/o Sh. Ramesh Chand, aged 40 years, r/o B-2/374, Nand Nagri, Delhi.

ON S.A. The settlement dated 11.07.2019 arrived at the Counselling Cell, Family Courts, Shahdara District, Karkardooma in relation to Suit No.606/2014 of the Court of the Principal Judge, Family Courts, Shahdara bears my signatures thereon and I have signed voluntarily of my own accord without any duress, coercion or pressure from any quarter.

In view of the said settlement arrived at between me and the petitioner No.1, a total sum of Rs.95,000/- had been agreed to be paid to me by the petitioner No. 1, out of which I have received a sum of Rs.80,000/- previously during the course of the proceedings under 13B(1) and 13B(2) of the HMA, 1955 and the balance sum of Rs.15,000/- has now been handed over to me in cash by the petitioner No.1 during the course of the present proceedings.

The marriage between me and the petitioner no.1 has since been dissolved vide a decree of divorce through mutual consent under Section 13B(2) of the HMA, 1955 in HMA Petition No.977/2019 vide a decree dated 28.11.2019 of the Court of the learned Principal Judge, Family Court, Shahdara, Karkardooma, New Delhi. There is a child born of the wedlock between me and the petitioner no.1 who is in my custody. Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:26.05.2022 14:55:39 This file is digitally signed by PS to HMJ ANU MALHOTRA.

In view of the settlement arrived at between me and the petitioner No.1 and all my claims against the petitioner No.1 having since been settled, I do not oppose the prayer made by the petitioner Nos.1 to 4, and 6 seeking the quashing of the FIR No.223/2013, PS Nand Nagri, under Sections 498A/406/34 of the Indian Penal Code, 1860 read with Sections 3 and 4 of the Dowry Prohibition Act, 1961 nor do I want them to be punished in relation thereto.

I have studied till Standard VI.

I have made my statement after understanding the implications thereof voluntarily of my own accord without any duress, coercion or pressure from any quarter and I do not need to think again.

RO & AC
25.05.2022

ANU MALHOTRA, J

Signature
Not Verified
Digitally Signed
By:SUMIT GHAI
Signing
Date:26.05.2022
14:55:39
This file is
digitally signed by
PS to HMJ ANU
MALHOTRA.