

Sh. Parvez Alam & Ors vs The State & Anr on 19 May, 2023

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.M.C. 3605/2023

SH. PARVEZ ALAM & ORS.

THE STATE & ANR.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN
ORDER

% 19.05.2023 CRL.M.A. 13681/2023(exemption)

1. Allowed, subject to all just exceptions.

2. Application stands disposed of.

3. The present petition has been filed under Section 482 Cr.PC seeking quashing of the FIR No. 558/2021 under Sections 323/498A/406/354/354A/506/34 IPC registered at Police Station Bhajanpura on the ground that the parties have entered into a settlement.

4. The charge sheet was, however, filed by the police under Sections This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 24/09/2023 at 17:20:10 354/354A/498A/323/406/506/509/377/376 IPC & Section 4 of the Muslim Women Protection Act.

5. Issue notice. The learned counsel named above accepts notice on behalf of the respondents.

6. The learned APP for the State submits that since the present FIR has arisen out of a matrimonial dispute and the parties have entered into a settlement, the State has no objection in case the FIR is quashed.

7. The petitioner no.1 (husband) along with his relatives and respondent no.2 are present in court who have been identified by their respective counsels and by the Investigating Officer (I.O) SI Ashutosh Mishra, PS. Bhajanpura.

8. The brief facts of the case are that the marriage between the parties was solemnised on 26.03.2017, as per the Muslim Rites and Rituals. Out of this wedlock, a girl child namely Hazel was born on 28.04.2020.

9. On account of temperamental differences, certain disputes arose between the parties which led to various litigations between them, including registration of the present FIR.

10. However, with the intervention of friends and relatives, the petitioner no.1 and the respondent no.2 have arrived at a settlement and since then they have been residing together. The respondent no.2, who is present in court, confirms this position.

11. On a query made by this court, the respondent no.2 states that she has entered into a compromise out of her own free will and without any pressure, coercion or threat. She further states that she has no objection in case the present FIR is quashed.

12. In the present FIR/charge-sheet, apart from the usual offences under This is a digitally signed order.

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13. A coordinate 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 for quashing the 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 & This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 24/09/2023 at 17:20:11 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."...

14. The same analogy would apply to the other non-compoundable offences under which the FIR was registered or the charge-sheet was filed.

15. In view of the above, there is no legal impediment in quashing the present FIR in question.

16. In view of the fact that the parties have amicably resolved their disputes out of their own free will and without any coercion and now that they have reunited and have been residing together, no useful purpose will be served in continuing the proceedings, rather the same would create further acrimony between them.

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

18. Accordingly, the FIR No.558/2021 under Sections 323/498A/406/354/354A/506/34 IPC registered at Police Station Bhajanpura as

well as, charge sheet filed under Sections This is a digitally signed order.

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19. The petition stands disposed off, in the above terms.

20. Order be uploaded on the website of this court.

VIKAS MAHAJAN, J MAY 19, 2023/dss This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 24/09/2023 at 17:20:11