

Shri Rohit Huda & Ors vs The State Govt. Of Nct Of Delhi And Anr on 19 December, 2023

Author: Jyoti Singh

Bench: Jyoti Singh

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CRL.M.C. 6130/2022
SHRI ROHIT HUDA & ORS.

Through: Mr. Krishna Dev P
with Petitioners in person

THE STATE GOVT. OF NCT OF DELHI AND ANR.

Through: Mr. Digam Singh Da
State with SI Sunil Kr., PS
Mr. Jatin Rajput, Advocate

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

% 19.12.2023

1. This petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.79/2011 dated 19.02.2011 registered at PS: Prashant Vihar, Delhi and charge sheet under Sections 498A/406/34 IPC including proceedings emanating therefrom.

2. Marriage between Petitioner No.1 and Respondent No.2 was solemnized on 25.10.2001 according to Hindu rites and ceremonies at Delhi. A male child was born out of the said wedlock on 09.02.2006. On account of disputes and differences arising between Petitioner No.1 and Respondent No. 2, a complaint was filed by Respondent No. 2 against the Petitioners, culminating into the present FIR.

3. Charge sheet has been filed and the matter is pending before the Trial Court. However, in the meantime, with the assistance of friends and family, 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 23/12/2023 at 22:15:13 parties have amicably settled all their disputes without any force, coercion or pressure before Counselling Cell, Family Court, West District, Tis Hazari, Delhi and a Settlement Deed dated 23.07.2022 was executed, copy of which is annexed as 'Annexure B' to the present petition. As per

the terms of settlement, Petitioner No.1 and Respondent No.2 have obtained a Decree of Divorce by mutual consent and the marriage stands dissolved. Certified copy of the judgment/decreed dated 01.11.2022 has been filed as 'Annexure C'. As per terms of settlement, Petitioner No.1 had agreed to pay a sum of Rs.32,00,000/- to Respondent No.2 and transfer the shares in her name in common properties, in full and final settlement of all her claims including maintenance, etc. in three equal instalments by way of demand drafts. It is stated by learned counsel for the Petitioners, on instructions, from the Petitioners, who have joined the proceedings through video conferencing that the entire sum of Rs.32,00,000/- has been paid to Respondent No.2 and this fact is acknowledged by Respondent No.2, who is present in Court through Video Conferencing as well as the counsel and the shares which were required to be transferred in the name of Respondent No.2 have also been transferred.

4. Petitioners and Respondent No.2 have been identified by their respective counsels as well as the Investigating Officer SI Sunil Kr., P.S. Prashant Vihar. Respondent No.2 acknowledges having received a total sum of Rs.32,00,000/- and submits that she has no objection to the FIR being quashed as the marriage between her and Petitioner No.1 stands dissolved and all other disputes have been amicably settled. Learned APP in the same vein also does not object to the quashing of the FIR, in view of the settlement between the parties.

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5. In *Gian Singh v. State of Punjab and Another*, (2012) 10 SCC 303, the Supreme Court observed as under:-

"55. In the very nature of its constitution, it is the judicial obligation of the High Court to undo a wrong in course of administration of justice or to prevent continuation of unnecessary judicial process. This is founded on the legal maxim *quando lex aliquid alicui concedit, conceditur et id sine qua res ipsa esse non potest*. The full import of which is whenever anything is authorised, and especially if, as a matter of duty, required to be done by law, it is found impossible to do that thing unless something else not authorised in express terms be also done, may also be done, then that something else will be supplied by necessary intendment. *Ex debito justitiae* is inbuilt in such exercise; the whole idea is to do real, complete and substantial justice for which it exists. The power possessed by the High Court under Section 482 of the Code is of wide amplitude but requires exercise with great caution and circumspection.

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61. The position that emerges from the above discussion can be summarised thus : the power of the High Court in quashing a criminal proceeding or FIR or complaint

in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz. : (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court. In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High This is a digitally signed order.

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6. The Supreme Court has consistently reaffirmed this view and in the context of matrimonial disputes, it would be relevant to refer to the observations of the Supreme Court in *Jitendra Raghuvanshi and Others v. Babita Raghuvanshi and Another*, (2013) 4 SCC 58, relevant paragraphs of which are as follows:-

"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 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 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 23/12/2023 at 22:15:13 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."

7. The Supreme Court in *B.S. Joshi v. State of Haryana*, (2003) 4 SCC 675, has observed that there is no doubt that the object of introducing Chapter XX-A containing Section 498A in IPC was to prevent torture to a woman by her husband and/or his relatives and is penal in nature, however, a hyper-technical view would be counter-productive and would act against interests of women in certain cases and would be against the object for which the provision was added as in a given case there is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling peacefully early in their lives. This is not the object of Chapter XX-A of IPC and therefore, the High Court, in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 Cr.P.C. does not limit or affect the powers under Section 482 Cr.P.C. In view of the fact that parties have mutually and amicably settled all their disputes and Respondent No. 2, the Complainant does not want to prosecute the criminal proceedings, no useful purpose will be achieved in continuing the criminal proceedings emanating from the subject FIR as the chances of conviction are bleak and remote. It would be in the interest of justice that the proceedings are terminated and parties live in peace so that the purpose of

settlement is not defeated. Accordingly, FIR No.79/2011 dated 19.02.2011 registered at PS: Prashant Vihar, Delhi and charge sheet under Sections 498A/406/34 IPC, are quashed including all proceedings emanating therefrom. This Court is fortified in its view by the This is a digitally signed order.

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8. In view of the judgment of the Supreme Court in Ganesh v. Sudhirkumar Shrivastava and Others, (2020) 20 SCC 787, terms of the settlement between the parties shall not preclude the child born from the wedlock to enforce his rights against the parties in accordance with law, as and when required.

9. Petition stands allowed and disposed of.

JYOTI SINGH, J DECEMBER 19, 2023/pa This is a digitally signed order.

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