

Rajesh Kumar & Ors vs State Of (Nct) Delhi & Anr on 19 October, 2023

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IN THE HIGH COURT OF DELHI AT NEW
CRL.M.C. 7718/2023
RAJESH KUMAR & ORS.

versus

STATE OF (NCT) DELHI & ANR.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

% 19.10.2023

1. Allowed, subject to all just exceptions.

2. The present petition has been filed under Section 482 CrPC seeking quashing of FIR No.0525/2022 under Sections 376/498A/406/354/354B/506/509/323/34 IPC registered at Police Station Sarita Vihar and all consequential proceedings emanating therefrom on the ground that the parties have arrived at a settlement.

3. Issue notice. Learned APP for the State accepts notice. He submits that since the FIR is an outcome of a matrimonial dispute and the parties have arrived at a settlement, the State has no objection in case the FIR in 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 23/10/2023 at 21:13:04 question is quashed.

4. The petitioner no.1 (husband) and petitioner nos.2 to 11, who are close relatives of the petitioner no.1, as well as, respondent no. 2 (wife) are present in the Court and they have been identified by the Investigating Officer SI Neetu, PS Sarita Vihar.

5. The brief facts of the case are that the marriage between the petitioner no.1 and respondent no. 2 was solemnized on 18.02.1999 according to Hindu Rites and Customs. Out of the said wedlock, two children were born.

6. On account of temperamental issues certain disputes arose between the parties and they started living separately. The dispute between the parties also led to the registration of present FIR.

7. During the pendency of the proceedings, the parties arrived at a settlement, terms whereof were reduced in writing in the form of MoU dated 03.10.2023, which is annexed as Annexure-B to the present petition.

8. It is recorded in the aforesaid MoU that the parties with the help of family members and relatives have amicably resolved all their disputes and have now started living together.

9. It is also a term of the settlement that the respondent no.2 shall cooperate with the petitioners in quashing of the aforesaid FIR.

10. The respondent no.2, on a query put by the Court, states that she has no objection in case the FIR is quashed.

11. 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 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 23/10/2023 at 21:13:04 ways and move ahead in their lives without acrimony against each other, power under Section 482 Cr.P.C. can be exercised even for an 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 & 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.

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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."...

12. I am of the view that the same analogy will apply to the offence under Section 376 IPC which is one of the offence alleged in the FIR, inasmuch, as the parties have resolved all their disputes amicably and are now living together peacefully.

13. Considering the fact that the parties have arrived at a settlement and have started staying together, no useful purpose will be served in continuing the proceedings, rather the same would create further acrimony between them.

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

15. Consequently, the petition is allowed and the FIR No.0525/2022 under Sections 376/498A/406/354/354B/506/509/323/34 IPC registered at Police Station Sarita Vihar alongwith all other proceedings emanating therefrom, is quashed.

16. The petition stands disposed of in the above terms.

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

VIKAS MAHAJAN, J OCTOBER 19, 2023/MK This is a digitally signed order.

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