

Mr. Vaibhav Chhabra & Anr vs The State (Govt. Of Nct Of Delhi) And Anr on 14 September, 2022

Author: Sudhir Kumar Jain

Bench: Sudhir Kumar Jain

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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(CRL) 2149/2022 & CRL.M.A. 18603/2022

MR. VAIBHAV CHHABRA & ANR.

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Through: Mr. M.L. Yadav, Mr. Abhishek,
Vishal Gupta, Advocates along
the petitioners in person.

versus

THE STATE (GOVT. OF NCT OF DELHI)

AND ANR.

..... Re

Through: Mr. Anand V Khatri, ASC for th
State with Ms. Meeta Sharma,
Advocate for R-1 alongwith S.
Ashish, P.S. Vikaspuri.
Mr. R.K Kohli, Ms. Jyoti Kohl
Rajat Kohli. Advocates for R-
R-2 in person.

CORAM:

HON'BLE MR. JUSTICE SUDHIR KUMAR JAIN

ORDER

% 14.09.2022

1. The present petition is filed under Article 226 of Constitution of India read with section 482 Cr.P.C. for quashing of FIR bearing no. 380/2018 dated 14.09.2018 registered under sections 498A/406/34 IPC at P.S. Vikas Puri alongwith consequential proceedings.

2. Issue notice.

3. Mr. Anand V. Khatri, Additional Standing Counsel accepts notice on behalf of the respondent no.1/State. The respondent no. 2 is present in person alongwith the counsel and accepts notice.

4. The petitioner no. 1 and the respondent no. 2 got married on 26.04.2014 at Delhi according to Hindu rites and customs and out of their marriage, one female child, namely, (Baby Alia Chhabra) was born, who at present is in the care and custody of the petitioner no. 1. The petitioner no. 1 and the respondent no. 2 due to matrimonial differences, started to live separately since 04.03.2018 without any cohabitation. The petitioner no. 2 is the mother of the petitioner no.1. The petitioners and the respondent no. 2 are identified by the Investigating Officer, SI Ashish, P.S. Vikas Puri and

their respective counsel.

5. The respondent no. 2 due to matrimonial differences got registered FIR bearing no. 380/2018 under sections 498A/406/34 IPC at P.S. Vikas Puri wherein the petitioners were implicated. The respondent no. 2 also filed a guardian petition bearing GP no. 55/2018 under section 12 of the Guardianship and Ward Act, titled as Ashima Chhabra V Vaibhav Chhabra which was stated to be pending in the Court of Ms. Preeti Aggarwal Gupta, Judge, Family Court, North West District, Rohini Courts, New Delhi, The respondent no. 2 also filed a petition bearing Mt no. 749/2018 under section 125 Cr.P.C. against the petitioner no. 1 titled as Ashima Chhabra V Vaibhav Chhabra pending in the court of Sh. Vipin Kumar Rai, Judge, Family Court, South West District, Dwarka Courts, New Delhi and also filed an execution petition bearing MC No. 473/2018, titled as Ashima Chhabra V Vaibhav Chhabra & Anr, which was stated to be pending in the court of Ms. Sadhika Jalan MM, (Mahila Court) ,South West District, Dwarka Courts, New Delhi. The counsel for the petitioners and the respondent no. 1 stated that these petitions have already been withdrawn by the respondent no. 2.

6. The trial arising out of FIR bearing no. 380/2018 was referred for Delhi Mediation Center, Dwarka Courts where the petitioner no. 1 and the respondent no. 2 vide settlement dated 24.04.2022, have settled their disputes and have agreed to dissolve their marriage by way of divorce by mutual consent as per section 13B(2) of the Hindu Marriage Act, 1955. The petitioner no. 1 has also agreed to pay Rs.7,00,000/- (Rupees Seven Lakhs Only) to the respondent no.2 towards full and final settlement of all the legal entitlements (past, present and future) arising out of marriage between the petitioner and the respondent no. 2 including permanent alimony/maintenance/istridhan etc. and other miscellaneous and legal expenses. It is stated that the petitioner no. 1 has already paid Rs.5,00,000/- to the respondent no. 2 which is also acknowledged by the respondent no. 2. The petitioner no. 1 also delivered a Demand Draft amounting to Rs.2,00,000/- bearing no. 087681 dated 08.07.2022 drawn on HDFC Bank, Pitampura, Community Centre towards the payment of balance settled amount to the respondent no.2 which is accepted by the respondent no. 2.

7. The marriage between the petitioner no. 1 and the respondent no. 2 has already been dissolved by way of divorce by mutual consent as per section 13B(2) of the Hindu Marriage Act, 1955 vide judgment dated 28.05.2022 in HMA bearing no. 1158/2022 titled as Vaibhav Chhabra and Ashima Chhabra passed by the Court of Ms. Preeti Agarwal Gupta, Judge, Family Court, District North West, Rohini, Delhi.

8. The counsel for the petitioners and the respondent no. 2 stated that the disputes between the petitioner no. 1 and the respondent no. 2 have already been settled vide settlement dated 28.05.2022 , the terms and conditions of which have already been executed. The marriage between the petitioner no. 1 and the respondent no. 2 has already been dissolved as such, the present petition be allowed and FIR bearing no. 380/2018 be quashed alongwith consequential proceedings.

9. The respondent no. 2 stated that she has settled with the petitioner no.1 out of her free own will and without any force and coercion and her marriage with the petitioner no. 1 has already been

dissolved. The respondent no. 2 further stated she has already received the entire settled amount as such, she does not have any objection if the present petition is allowed and FIR bearing no. 380/2018 is quashed.

10. The Additional Public Prosecutor also stated that the petitioner no.1 and the respondent no. 2 have already settled their disputes vide settlement dated 28.05.2022 and their marriage has already been dissolved as such, he does not have any objection if the present petition is allowed.

11. The Supreme Court continuously observed that the extraordinary power Under Section 482 Code of Criminal Procedure should be exercised sparingly and with great care and caution and can be used to prevent abuse of the process of the court or to secure ends of justice and the exercise of inherent powers entirely depends on facts and circumstances of each case. The power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and victim have settled their dispute depending on the facts and circumstances of each case. The Supreme Court in *Sushil Suri v. Central Bureau of Investigation and another*, (2011) 5 SCC 708, considered the scope and ambit of the inherent jurisdiction of the High Court and observed as under:-

16. Section 482 Code of Criminal Procedure itself envisages three circumstances under which the inherent jurisdiction may be exercised by the High Court, namely, (i) to give effect to an order under Code of Criminal Procedure; (ii) to prevent an abuse of the process of court; and (iii) to otherwise secure the ends of justice. It is trite that although the power possessed by the High Court under the said provision is very wide but it is not unbridled. It has to be exercised sparingly, carefully and cautiously, *ex debito justitiae* to do real and substantial justice for which alone the Court exists.

12. The petitioner no. 1 and the respondent no. 2 got married on 26.04.2014 and due to matrimonial differences, they are living separately since 04.03.2018 without any cohabitation. The petitioner no. 1 and the respondent no. 2 have already settled their pending disputes vide settlement dated 28.05.2022, the terms and conditions of which have already been executed and the respondent no. 2 has already received the entire settled amount. The marriage between the petitioner no. 1 and the respondent no. 2 has already been dissolved as detailed hereinabove. No useful purpose shall be served if the proceedings arising out of FIR bearing no. 380/2018 is allowed to be continued and it would be an exercise in futility.

13. After considering all facts and in the interest of justice, the present petition is allowed and FIR bearing no. 380/2018 registered under sections 498A/406/34 IPC at P.S. Vikas Puri alongwith consequential proceedings including judicial proceedings which was stated to be pending before the Court of Ms. Preeti Agarwal, Judge Family Court District North West, Rohini/Successor Court is quashed.

14. The present petition alongwith pending applications, if any, stands disposed of.

SUDHIR KUMAR JAIN, J SEPTEMBER 14, 2022/sk/kg