

Rohit Dagar & Ors vs State (Nct Of Delhi) & Anr on 20 July, 2022

Author: Anu Malhotra

Bench: Anu Malhotra

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(CRL) 969/2022

ROHIT DAGAR & ORS.

Through:

..... Petition

Mr.Mohd. Shariq, Advocate
petitioners

versus

STATE (NCT OF DELHI) & ANR. Respondents

Through: Mr. Anand V. Khatri, ASC (Crl.) with

Indira Karki, Advocate with SI
Parvesh

Mr.Anil Kumar and Ms.Tejaswini
Verma, Advocate for R-2

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% 20.07.2022 The petitioners, vide the present petition seek the quashing of the FIR No. 433/2019, Police Station Alipur, registered under Sections 498A/406/34 of the Indian Penal Code, 1860 submitting to the effect that a settlement has been arrived at between the parties vide a settlement document dated 7.9.2021 and the settlement deed dated 14.7.2022 pursuant to which the marriage between the petitioner No.1 and the respondent no.2 has since been dissolved vide a decree of divorce through mutual consent under Section 13B(2) of the Hindu Marriage Act, 1955, dated 19.1.2022 in HMA No.109/22, of the Court of the Judge, Family Courts-03, North Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:22.07.2022 16:21:17 This file is digitally signed by PS to HMJ ANU MALHOTRA.

District, Rohini Courts Delhi and that pursuant thereto the total settled sum of Rs.22,50,000/- has since been paid by the petitioners to the respondent no.2 and that all the claims of the respondent No.2 stand settled and that the minor child born of the wedlock between the petitioner No.1 and the respondent no.2 is in the custody of the petitioner No.1 and that no useful purpose would be served by the continuation of the proceedings in relation to the present FIR.

The deputed Investigating Officer of the case is present and has identified Nos.1 to 5, namely Rohit Dagar, Naresh Kumari, Narayan Dagar, Prashant Dagar and Shikha Dagar, present in the Court today as being the five accused arrayed in the FIR and has also identified the respondent No.2, Anuradha Rana, present in the Court today as being the complainant of the FIR.

The respondent no.2 in her deposition on oath in replies to specific Court queries has affirmed the factum of the settlement vide settlement document dated 7.9.2021 which she states that she has signed voluntarily of her own accord without any duress, pressure or coercion from any quarter and further affirms the factum of the dissolution of the marriage between her and the petitioner No.1 vide a decree of divorce through mutual consent under Section 13B(2) of the Hindu Marriage Act, 1955, dated 19.1.2022 in HMA No.109/22, of the Court of the Judge, Family Courts-03, North District, Rohini Courts. She further deposed that in terms of the said settlement she has since received the total settled sum of Rs.22,50,000/- from the petitioners of which a sum of Rs.6 lacs was received by her at the time of proceedings under Section 13 B(1) of the Hindu Marriage Act, 1955, Rs.8,25,000/- at the time of the proceedings under Section 13 B(2) of the Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:22.07.2022 16:21:17 This file is digitally signed by PS to HMJ ANU MALHOTRA.

Hindu Marriage Act, 1955, and the balance sum of Rs.8,25,000/- has now been handed over to her by the petitioners today during the course of the present proceedings vide a demand draft bearing No.013594 dated 19.7.22 drawn on the HDFC Bank in my favour. She further deposed that since there are now no claims of hers left against the petitioners she thus does not oppose the prayer made by the petitioners, namely, Rohit Dagar, Naresh Kumari, Narayan Dagar, Prashant Dagar and Shikha Dagar, seeking the quashing of the FIR No. 433/2019, Police Station Alipur, registered under Sections 498A/406/34 of the Indian Penal Code, 1860 nor does she want them to be punished in relation thereto. She further deposed that the minor child Taksh Dagar born of the wedlock between her and the petitioner no.1 is in the custody of the petitioner No.1 and also affirmed the factum of the affidavits dated 23.12.2021 and 1.7.2022 bearing her signatures thereon which she states that she has signed voluntarily of her own accord without any duress, pressure or coercion from any quarter and also stated that she has stated in paragraph 2 of her affidavit dated 1.7.2022 that the aspect of the rights of the minor child Taksh Dagar are open and are not settled.

She further states that she has done M.A. and she is a teacher and that she made her statement voluntarily of her own accord without any duress, pressure or coercion from any quarter after understanding the implications thereof and that she does not want to think again.

The petitioner no.1 in his deposition on oath has affirmed the factum of having seen the contents of his affidavit dated 14.7.2022 which he states that he has signed voluntarily of his own accord without any duress, pressure or coercion from any quarter and also affirmed vide paragraph 2 of his affidavit dated 14.7.2022 that the child Taksh Dagar born of the wedlock Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:22.07.2022 16:21:17 This file is digitally signed by PS to HMJ ANU MALHOTRA.

between him and the respondent No.2 is in his custody but that the rights of the minor child despite the settlement arrived at between him and the respondent No.2 are open and not settled.

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 deposition of the respondent no.2 and the settlement arrived at between the parties.

In view of the deposition of the respondent no.2, non-opposition on behalf of the State, identification of the petitioners and the respondent no.2 by the Investigating Officer of the case and the settlement that has been arrived at between the parties, in as much as, the FIR has apparently emanated from a matrimonial discord between the petitioner 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 aforementioned 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 petitioners voluntarily of her own accord without any duress, coercion or pressure from any quarter, 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 Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:22.07.2022 16:21:17 This file is digitally signed by PS to HMJ ANU MALHOTRA.

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 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 Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:22.07.2022 16:21:17 This file is digitally signed by PS to HMJ ANU MALHOTRA.

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 :-

"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 Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:22.07.2022 16:21:17 This file is digitally signed by PS to HMJ ANU MALHOTRA.

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. 433/2019, Police Station Alipur, registered under Sections 498A/406/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioners i.e. petitioner Nos.1 to 5, namely Rohit Dagar, Naresh Kumari, Narayan Dagar, Prashant Dagar and Shikha Dagar are thus quashed.

It is made however expressly clear that despite the quashing of the FIR and the terms of the settlement incorporated in the settlement documents which is placed on record by the petitioners would not amount to any embargo on the minor child Taksh Dagar seeking his claims against the petitioner no.1 qua maintenance or otherwise 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 Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:22.07.2022 16:21:17 This file is digitally signed by PS to HMJ ANU MALHOTRA.

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 JULY 20, 2022/sv Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:22.07.2022 16:21:17 This file is digitally signed by PS to HMJ ANU MALHOTRA.

IN THE HIGH COURT OF DELHI: NEW DELHI W.P.(CRL.) 969/2022 ROHIT DAGAR & ORS . Vs. THE STATE GOVT. OF NCT OF DELHI & ANR.

CW-1 SI PARVESH Police Station ALIPUR ON S.A I have been deputed to attend the proceedings qua FIR No. 433/2019, Police Station Alipur, registered under Sections 498A/406/34 of the Indian Penal Code, 1860. There are five accused arrayed in the FIR. I identify the petitioner Nos.1 to 5, namely Rohit Dagar, Naresh Kumari, Narayan Dagar, Prashant Dagar and Shikha Dagar, present in the Court today as being the five accused arrayed in the FIR.

I identify the respondent No.2, Anuradha Rana, present in the Court today as being the complainant of the FIR.

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IN THE HIGH COURT OF DELHI: NEW DELHI W.P.(CRL.) 969/2022 ROHIT DAGAR & ORS . Vs.
THE STATE GOVT. OF NCT OF DELHI & ANR.

CW-2 MS.ANURADHA RANA D/O SH.ASHOK RANA R/O H. No.205, NEAR RAILWAY CROSSING KHERA KALAN, DELHI- 110082 AGED 34 YEARS ON S.A. In terms of the settlement document dated 7.9.2021 which I have signed voluntarily of my own accord without any duress, pressure or coercion from any quarter the marriage between the me and the petitioner No.1 has since been dissolved vide a decree of divorce through mutual consent under Section 13B(2) of the Hindu Marriage Act, 1955, dated 19.1.2022 in HMA No.109/22, of the Court of the Judge, Family Courts-03, North District, Rohini Courts. In terms of the said settlement I have since received the total settled sum of Rs.22,50,000/- from the petitioners of which a sum of Rs.6 lacs was received by me at the time of proceedings under Section 13 B(1) of the Hindu Marriage Act, 1955, Rs.8,25,000/- at the time of the proceedings under Section 13 B(2) of the Hindu Marriage Act, 1955, and the balance sum of Rs.8,25,000/- has now been handed over to me by the petitioners today during the course of the present proceedings vide a demand draft bearing No.013594 dated 19.7.22 drawn on the HDFC Bank in my favour and there are now no claims of mine left against the petitioners. The minor child Taksh Dagar born of the wedlock between me and the petitioner no.1 is in the custody of the petitioner. My affidavits dated 23.12.2021 and 1.7.2022 bear my signatures thereon which I have signed voluntarily of my own accord without any duress, pressure or Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:22.07.2022 16:21:17 This file is digitally signed by PS to HMJ ANU MALHOTRA.

coercion from any quarter. I have stated in paragraph 2 of my affidavit dated 1.7.2022 that the aspect of the rights of the minor child Taksh Dagar are open and are not settled.

In view of the settlement arrived at between me and the petitioners I thus do not oppose the prayer made by the petitioners, namely, Rohit Dagar, Naresh Kumari, Narayan Dagar, Prashant Dagar and Shikha Dagar, seeking the quashing of the FIR No. 433/2019, Police Station Alipur, registered under Sections 498A/406/34 of the Indian Penal Code, 1860 nor do I want them to be punished in relation thereto.

I have done M.A. and I am a teacher. I have made my statement voluntarily of my own accord without any duress, pressure or coercion from any quarter after understanding the implications thereof. I do not want to think again.

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IN THE HIGH COURT OF DELHI: NEW DELHI W.P.(CRL.) 969/2022 ROHIT DAGAR & ORS . Vs.
THE STATE GOVT. OF NCT OF DELHI & ANR.

CW-3 ROHIT DAGAR S/O NARAYAN DAGAR R/O H.No.81 MAIDAN GARHI, NEW DELHI AGED 34 YEARS ON S.A I have seen the contents of my affidavit dated 14.7.2022 which I have signed voluntarily of my own accord without any duress, pressure or coercion from any quarter and stated therein vide paragraph 2 thereof that the child Taksh Dagar born of the wedlock between me and the respondent No.2 is in my custody but the rights of the minor child despite the settlement arrived at between me and the respondent No.2 are open and not settled.

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