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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(CRL) 1683/2022

SUMEET RATHORE & ORS. Petitioners

Through: Mr. Shubham Kumar, Mr. Nitish
Banka and Mr. Lakshay Manchanda.

versus

STATE & ANR. Respondents

Through: Mr. Anand V. Khatri, ASC (Crl.) for
State with SI Sonia, P.S. Fatehpur
Beri.
Mr. Mohit Verma, Advocate for R-2.

CORAM:
HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER
17.11.2022

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1. The instant petition under Section 482 of the Code of Criminal Procedure, 1973 read with Article 226 of the Constitution of India has been filed by the petitioners praying for quashing of FIR bearing no. 437/2021 registered at Police Station Fatehpur Beri, New Delhi for the offences punishable under Sections 498A/406/376/354/34 of the Indian Penal Code, 1860.
2. All the petitioners are present before this Court and have been identified by their counsel Mr. Shubham Kumar and Investigating Officer (IO) SI Sonia from Police Station Fatehpur Beri, Delhi.
3. In the present case, the marriage between petitioner no. 1 and respondent no. 2 was solemnized on 03.12.2019 and they are staying

separately since 05.06.2020. Due to marital disputes respondent no. 2 lodged FIR No. 437/2021 at Police Station Fatehpur Beri, New Delhi for the offences punishable under Sections 498A/406/376/354/34 of the Indian Penal Code, 1860. On 23.12.2021 the matter has amicably settled between petitioner no. 1 and respondent 2 for a total consideration of Rs. 8,00,000/-.

4. On a query made by this Court, respondent no. 2 who has been identified by the IO, has categorically stated that she has entered into compromise out of her own free will and without any pressure, coercion or threat. It is also stated by respondent no. 2 that the entire dispute has been amicably settled between the parties before Mediation Centre, Saket Courts, New Delhi on 23.12.2021.

5. It is submitted that respondent no. 2 has settled all her claims in respect of her dowry articles, stridhan, marriage expenses, jewellery, gift items and claims of past, present and future maintenance and permanent alimony with petitioner no.1 and other family members.

6. The petitioner no. 1 had paid a sum of Rs. 8,00,000/- in three instalments in the following manner:

- a. First instalment of Rs. 3,50,000/- has paid to respondent no. 2 in the first motion of petition.
- b. Second instalment of Rs. 3,50,000/- has paid to respondent no. 2 in the second motion of petition.
- c. Second/Final instalment of Rs. 1,00,000/- to be paid at the time of quashing of the FIR before the Hon'ble High Court at New Delhi.

7. Today, the complainant who is present in Court states that she has received the last and final instalment of Rs. 1,00,000/- today, i.e., 17.11.2022 *vide* DD No. 314433 drawn on Union Bank, Bawana and has no

objection if the FIR is quashed.

8. The parties have compromised and states that they want to move on in their life and settle again. No child is born from this marriage. It is pointed out that there are allegations under Section 376 IPC against the elder brother of the husband i.e. petitioner no. 4 as well as the brother of the father-in-law i.e. petitioner no. 6. The complainant/ respondent no. 2 who is present in Court states that she does not want to go through the trial of this case since she wants to re-settle in life and her future will be adversely affected in case the matter which has been compromised between the parties remains pending. The charge-sheet has already been filed in this case, however, charges are yet to be framed. The trial has not yet commenced.

9. The case has not been committed as yet to the Sessions court for trial. Respondent no. 2 who is the complainant/victim/prosecutrix herself does not want to support her own case. Therefore, eventually even if the criminal trial is held, it may result in the petitioner no. 1 and respondent no. 2/complainant being deprived of their youth when they want to re-settle in their life. Since this case pertains to the matrimonial discord between the parties, this Court relying on judgment of Hon'ble Apex Court in ***Kapil Gupta v. State of NCT of Delhi, 2022 SCC OnLine SC 1030***, while quashing an FIR under Section 376 IPC, had observed as under:

“...13. It can thus be seen that this Court has clearly held that though the Court should be slow in quashing the proceedings wherein heinous and serious offences are involved, the High Court is not foreclosed from examining as to whether there exists material for incorporation of such an offence or as to whether there is sufficient evidence which if proved would lead to proving the charge for the offence charged with. The Court has also to take into consideration as to whether the settlement between the

parties is going to result into harmony between them which may improve their mutual relationship.

14. The Court has further held that it is also relevant to consider as to what is stage of the proceedings. It has been observed that if an application is made at a belated stage wherein the evidence has been led and the matter is at the stage of arguments or judgment, the Court should be slow to exercise the power to quash the proceedings. However, if such an application is made at an initial stage before commencement of trial, the said factor will weigh with the court in exercising its power...”

10. Considering that this is a case of matrimonial discord and not a simpliciter case under Section 376 IPC wherein the offence is taken to be against the society at large, taking into consideration that a family dispute has come to such an extent, that an FIR bearing no. 437/2021 under Sections 498A/406/376/354/376/34 IPC came to be registered where the complainant herself is not willing to proceed with the present case since they have already been divorced, in view of the young age of the petitioner no. 1 and complainant/respondent no. 2 herein who were former husband and wife from the point of the society as well as considering their future, this Court is inclined to quash the present FIR.

11. In view of the above facts that the parties have amicably resolved their disputes out of their own free will, and without any coercion, no useful purpose will be served by continuing the proceedings, rather the same would create further acrimony between them. It would thus be in interest of justice to quash the abovementioned FIR and the proceedings pursuant thereto. There is no legal impediment in quashing the FIR in question.

12. Accordingly, FIR bearing no. 437/2021 registered at Police Station Fatehpur Beri for the offences punishable under Sections

498A/406/376/354/376/34 of the IPC and all consequential proceedings emanating therefrom are quashed.

13. The petition stands disposed of.

14. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

NOVEMBER 17, 2022/zp