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

% Date of Decision: 16.05.2024

+ CRL.M.C. 3978/2024

GAURAV KUMAR & ORS.

..... Petitioners

Through: Mr. Sourav Dutta and Mr. Nakul Grover, Advs.

versus

THE STATE AND ANR

..... Respondents

Through: Ms. Kiran Bairwa, APP for State with SI Mukesh Kumar, PS Tilak Nagar. Ms. Shashi Jaiswal, Adv. for R-2 with R-2 in person.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

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J U D G M E N T

ANOOP KUMAR MENDIRATTA, J (ORAL)

CRL.M.A. 15151/2024

Exemption allowed, subject to just exceptions.

Application stands disposed of.

CRL.M.A./2024 (to be numbered)

An application under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') and Section 5 of Limitation Act has been filed for condonation of delay of 09 days in re-filing the petition.

For the reasons stated in the application, delay of 09 days in re-filing the petition is condoned.

Application stands disposed of.

CRL.M.C. 3978/2024

1. Petition under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioners for quashing of



FIR No. 0303/2018 under Sections 323/328/354/506/34 IPC registered at P.S.: Tilak Nagar and proceedings emanating therefrom.

2. Issue notice. Learned APP for the State and learned counsel for respondent No. 2 with respondent No. 2 in person appear on advance notice and accept notice.

3. In brief, as per the case of prosecution, the present FIR was lodged by respondent No. 2, wife of petitioner No.1, wherein she alleged that her father-in-law, mother-in-law, brothers-in-law and sisters-in-law (Nanad and Devrani) on the night of 10.07.2018 had attempted to kill her by giving sleeping pills. She further alleged that at the instance of her husband she was also sexually harassed by 'R' & 'S' (brothers of petitioner No.1). Further the accused threatened to kill her son after administering the sleeping pills.

4. Learned counsel for petitioners submits that though allegations arising out of matrimonial differences were leveled by respondent No. 2 against all the family members, but after investigation, the chargesheet was filed only against the present petitioners as the role of mother-in-law, father-in-law and sisters-in-law could not be corroborated in investigation. He further submits that proceedings primarily arise due to matrimonial disputes between petitioner No. 1 and respondent No. 2, which have been amicably resolved in terms of settlement dated 29.11.2022. The marriage between petitioner No. 1 and respondent No. 2 is further stated to have been dissolved by decree of divorce by way of mutual consent under Section 13B(2) of the Hindu Marriage Act vide judgment and decree dated 27.07.2023.

5. An amount of Rs. 5,00,000/- has been paid to respondent No. 2 today (i.e. Rs.4,00,000/- through DD No. 438279 dated 30.03.2024 drawn on State Bank of India, Keshopur Branch, New Delhi and Rs.1,00,000/- in cash) in



terms of settlement between the parties.

6. Learned APP for the State submits that in view of amicable settlement between the parties, she has no objection in case the FIR in question is quashed.

7. Petitioners as well as respondent No. 2 are present in person and have been identified by SI Mukesh Kumar, P.S. Tilak Nagar. I have interacted with the parties and they confirm that the matter has been amicably settled between them without any threat, pressure or coercion. Respondent No. 2 also states that nothing remains to be further adjudicated upon between the parties and she has no objection in case the FIR in question is quashed.

8. Petitioners in the present case seek to invoke the powers under Section 482 of Code of Criminal Procedure. The same is to be used to secure the ends of justice or to prevent the abuse of process of Court. In which cases, the power to quash the criminal proceedings or the complaint or FIR may be used when the offender as well as victim have settled their dispute, would depend upon the facts and circumstances of each case and no generalised list or categories can be prescribed. However, the Court is required to give due regard to the nature and gravity of the offence and consider the impact on the society.

9. It may also be observed that heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot be quashed despite settlement. However, distinguished from serious offences, minor incidents or offences, which don't affect the society at large or are personal in nature, stand on a different footing, so far as exercise of inherent powers under Section 482 Cr.P.C. is concerned. The High Court also 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. It may also be assessed, if in view of compromise between the parties, the possibility of conviction in such a case is remote and whether continuation of proceedings would cause grave oppression and prejudice the accused.

10. Parties intend to put quietus to the proceedings, which primarily arise out of matrimonial disputes. The settlement shall promote harmony between the parties and permit them to move forward in life. Also the chances of conviction are bleak in view of amicable settlement between the parties.

11. Considering the facts and circumstances, since the matter has been amicably settled between the parties, no useful purpose shall be served by keeping the case pending. Continuation of proceedings would be nothing but an abuse of the process of Court. Consequently, FIR No. 0303/2018 under Sections 323/328/354/506/34 IPC registered at P.S.: Tilak Nagar and the proceedings emanating therefrom stand quashed.

In the facts and circumstances, instead of imposing the costs upon the petitioners, they are directed to plant 10 saplings of trees each, which are upto 03 feet in height in the local parks in the area of P.S. Tilak Nagar after getting in touch with the competent authority (i.e. Horticulture Department of MCD/DDA/Conservator of Forests, Department of Forests & Wildlife, Govt. of NCT of Delhi) through IO/SHO, P.S. Tilak Nagar. The photographs of planted saplings alongwith report of IO/SHO concerned shall be forwarded to this Court within eight weeks. Further, the upkeep of the saplings/trees shall be undertaken by the authorities concerned. In case of non compliance of directions for planting of trees, petitioners shall be liable



to deposit cost of Rs. 10,000/- each with the Delhi State Legal Services Authority.

Petition is accordingly disposed of. Pending application, if any, also stands disposed of.

A copy of this order be forwarded to learned Trial Court for information.

ANOOP KUMAR MENDIRATTA, J.

MAY 16, 2024/akc