

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

**CrI. M.C. No.  8384-88/2006**

**22.10.2007**

**Date of Decision: 22nd October, 2007**

**Khush Chaddha and Ors.**

**.....Petitioners**

**Through Mr. Anirudh Yadav, Advocate for the petitioners**

**versus**

**\$ State of NCT of Delhi and Anr. ....**

**Respondents**

**Through Mr. O.P. Saxena, Advocate for the State.**

**Mr. M. Hussain, Advocate for Respondent no. 2.**

**CORAM:**

**HON'BLE MR. JUSTICE P.K.BHASIN**

- 1. Whether Reporters of local papers may be allowed to see the judgment?(No)**
- 2. To be referred to the Reporter or not?(No)**
- 3. Whether the judgment should be reported in the digest?(No)**

### **JUDGMENT**

**P.K.BHASIN, J:**

**The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as ?Cr.P.C.?) for quashing of FIR No. 349/1999 under Sections 498-A/406/34 of Indian Penal Code (?I.P.C.? in short) and Sections 3/4 of Dowry Prohibition Act registered at Police Station Shahdara on 01.12.2000 and the criminal proceedings emanating therefrom pending trial in the Court of Ms. Anuradha Shukla, Metropolitan Magistrate, Delhi.**

**2.The relevant facts are that the marriage between petitioner no. 1 and respondent no. 2 was solemnized as per Hindu rituals and customs on 20.04.1988. Petitioner nos. 2 and 3 are brothers-in-law, petitioner no. 4 is mother-in-law and petitioner no. 5 is sister-in-law of respondent no. 2. After the marriage between the petitioner no. 1 and respondent no. 2 disputes arose between respondent no. 2 and her in-laws which led to the registration of an FIR under Sections 498-A/406/34 IPC at Shahdara police station at the behest of respondent**

no. 2. In her complaint to the police the respondent no. 2 had made allegations of torture to her by the petitioners for not fulfilling their demands of dowry. The police did the investigation and then filed a charge-sheet in the concerned Court against the petitioners where trial is stated to be going on.

3. During the pendency of the said criminal case, the complainant and the petitioners resolved their disputes and arrived at an amicable settlement as regards the maintenance, stridhan/dowry articles etc. The copy of agreement dated 05.04.2006 has been annexed with this petition. The petitioner no. 1 and respondent no. 2 herein, as it can be seen from the petition itself, have already sought divorce by way of mutual consent.

4. Since the offences for which the petitioners were being prosecuted were not compoundable as per the provisions of Section 320 Cr.P.C the present petition under Section 482 Cr.P.C. was filed by the petitioners. Notice of the petition was sent to the State and respondent no.2-complainant. Respondent no. 2 appeared in person along with a counsel on 10.10.2007 before this Court and she affirmed that the disputes have been amicably resolved and so she was no more interested in pursuing her case against any of the petitioners. She supported the prayer of the petitioners for quashing of the FIR also by filing her affidavit. She also affirmed the terms of settlement which have been written in black and white in the agreement dated 05.04.2006. Learned APP for the State also did not oppose the petition in view of the settlement between the complainant and her in-laws.

5. In support of the prayer made in the petition for quashing of the FIR, learned counsel for the petitioners placed reliance upon a judgment of the Hon'ble Supreme Court in ?B.S.Joshi and Ors. Vs. State of Haryana and Anr.?, AIR 2003 SC 1386. That was also a case under Sections 498-A/323/406 IPC and during the pendency of criminal proceedings the disputes between the parties were settled. Petition was filed in the High Court for quashing of the FIR but that petition was dismissed by the High Court on the ground that the offences under Sections 498-A and 406 IPC being non-compoundable the inherent powers under Section 482 Cr.P.C. could not be invoked to bypass the mandatory provisions of Section 320 Cr.P.C. While reversing the decision of the High Court the Hon'ble Supreme Court observed that ?if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320 would not be a bar to the exercise of power of quashing.? It was also observed that in case of matrimonial disputes it becomes the duty of the Court to encourage genuine settlements of matrimonial disputes. In paras no. 13 and 14 of the judgment it was observed as under:-

?13. The observations made by this Court, though in a slightly different context, in G.V. Rao v. L.H.V. Prasad and Ors. are very apt for determining the approach required to be kept in view in matrimonial dispute by the courts, it was said that there has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about

rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reason which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their 'young' days in chasing their 'cases' in different courts.

14. There is no doubt that the object of introducing Chapter XX-A containing Section 498A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view

to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper technical view would be counter productive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XXA of Indian Penal Code.?

After observing so, the Hon'ble Supreme Court quashed the FIR in view of the fact that the matrimonial dispute between the parties in that case had been amicably resolved.

7. The complainant in the present case, as noticed already, has herself admitted before this Court that because of the settlement of the disputes with the petitioners she is no more interested in the prosecution of the petitioners pursuant to the FIR got registered by her. Thus, in view of the afore-quoted views of the Hon'ble Supreme Court in B.S. Joshi's case (supra) the FIR registered at the instance of respondent no. 2-complainant against the petitioners deserves to be quashed since the parties have amicably resolved their disputes.

8. This petition is accordingly allowed and consequently FIR No. 349/1999 registered at Police Station Shahara on 01.12.2000 under Sections 498A/406/34 IPC and Sections 3/4 of Dowry Prohibition Act and the criminal proceedings arising therefrom pending trial in the court of Ms. Anuradha Shukla, Metropolitan Magistrate is hereby quashed.

**P.K.BHASIN,J**

**October 22, 2007**

sh