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

+ CRL.M.C. 332/2023

SOHAIL @ SOHAIL KHAN

..... Petitioner

Through: Mr. Vishal Khanna and Mr. Nitish Pathania, Advocates

versus

STATE & ANR

..... Respondent

Through: Mr. Shoaib Haider, APP for State

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

04.10.2023

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[The proceeding has been conducted through Hybrid mode]

1. This petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") seeking quashing of FIR No.245/2022 under Sections 326/506 IPC, 1860 registered at Police Station Anand Parbat, Delhi on the basis of the no objection affidavit filed by the respondent no.2.
2. Learned counsel appearing for the petitioner submits that the petitioner and respondent no.2 are husband and wife. Learned counsel submits that while cooking food in the kitchen, the clothes of respondent no.2 caught fire and the petitioner tried to save the respondent no.2 wife. However, according to the prosecution, it was alleged that it was the petitioner who had caused the burn injury on respondent no.2 by his acts.
3. Learned counsel for the petitioner submits that the respondent no.2 has placed on record an attested affidavit in support of the petition. It would



be apposite to extract the deposition made by respondent no.2 in the affidavit placed on record as under:-

1. *That I am the respondent No.2 in this case and am well fully conversant with the facts of the case hence I am competent to swear this affidavit.*
2. *That the FIR No.0245/22, U/s 326/506 IPC in P.S. Anand Parbat lodged on the basis of my statement in which my husband namely Sohail @ Sohail Khan was arrested on 23.5.2022 since then he is in J.C.*
3. *That on 1.5.2022 in mid-night at about 12:00 A.M. to 1:00 A.M. a mis-happening happened in which I and my husband got serious burn injury.*
4. *That my husband tried to save me from fire and during this saving he also got serious burn injury.*
5. *That he saved me and also saved my unborn child that time I was pregnant.*
6. *That after burn injury so many persons met me and advised me that what statement I should make due to burn injury and pain I was not in good state of mind.*
7. *That after discharge from hospital I went my parental home at Hardoi, U.P. where I have delivered a male child namely Shehnawaz on 22.10.2022.*
8. *That on 30.4.2022 during filling the water Gallon from DJB Tanker quarreled with neighbor and due to which I got some injury on my right eye which present bluish colorization on right eyes.*
9. *That on 15.12.2022 I was present before the Hon'ble Court of Sh.Shubham Devadiya Ld. M.M.-05 (West) Tis Hazari Courts, Delhi and informed the court that I am living in my matrimonial home with my in-laws and do not want to continue his case.*
10. *That I do not want to continue the case as my husband is innocent.*
11. *That he is only bread earner in his family.*
12. *That my father-in-law is the patient of Paralysis.*
13. *That I have no objection if the above said FIR No.0245/22 is quashed by this Hon'ble court. It will be in the interest of justice to quash the said FIR.*



14. That I undertake to appear before the Hon'ble High Court of Delhi and will cooperate for the same.

15. That the contents of the accompanying petition U/s 482 Cr.P.C. have been read over and explained to me in my vernacular language and I have understood the same. The facts stated therein are true and may be read as part of this affidavit as the same are not repeated herein for the sake of brevity."

4. A perusal of the aforesaid deposition makes it clear that the incident was an accident and not a deliberate offence committed by the petitioner. Moreover, the petitioner and respondent no.2 are husband and wife and have an infant. In case the FIR and proceedings emanating therefrom are continued to be prosecuted in the Courts of law, it would definitely disrupt the family.

5. IO is present in Court and identifies the parties.

6. This Court has interacted with respondent no.2, who is present in person. She affirms the deposition in the affidavit. She submits that the injuries caused to her are not on account of any offence committed by the petitioner but due to an accident. She submits that the couple has a minor son of 11 months. She submits that she has no objection in case the aforesaid FIR is quashed.

7. Keeping in view the aforesaid situation, as also taking into consideration the deposition of the respondent no.2, it appears to be a futile exercise in case the proceedings are permitted to be continued.

8. In view of the above, FIR No. 245/2022 under Sections 326/506 IPC, 1860 registered at Police Station Anand Parbat, Delhi and all consequential proceedings emanating therefrom are hereby quashed.

9. The petition stands disposed of.



10. A copy of this order be sent to Jail Superintendent forthwith for necessary action and release of the petitioner, in case he is not wanted in any other case.

11. *Dasti.*

TUSHAR RAO GEDELA, J

OCTOBER 4, 2023

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