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

+ CRL.M.C. 330/2023

PIYUSH SHARMA & ORS.

..... Petitioners

Through: Mr.Harssu Bhatia and Mr.Vinay
Kaushik, Advocates
Petitioners in person.

versus

STATE NCT OF DELHI & ANR.

..... Respondents

Through: Mr.Hemant Mehla, APP for the state
with Mr.Dipanshu Meena, Advocate
WSI Damini, PS Vikaspuri.
Respondent no.2 in person.

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Date of Decision: 25.04.2023

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. Present petition has been filed seeking quashing of case FIR No. 0619/2016 dated 26.10.2016 registered under Sections 406/498A/34 IPC at PS Vikaspuri, West Delhi. The said FIR was lodged at the complaint of the respondent No.2/wife.
2. Facts in brief are that the marriage between petitioner No. 1 and respondent no. 2/complainant was solemnized on 29.04.2015 as per Hindu rites and customs in Delhi. One male child namely Moditya alias Shivu was born out of the wedlock. However, owing to

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temperamental differences the parties started living separately since 23.12.2015. Thereafter, respondent no. 2/complainant got registered the present FIR against the petitioners herein. Chargesheet is stated to have been filed and the matter is pending adjudication before the learned Trial Court.

3. Besides the present FIR, various litigations emerged between the parties such as Respondent. No.2 filed a maintenance petition Mt. No. 620/2017, Execution Petition No. Ex/criminal/156/2022 and HMA No. 1619/2019, and a complaint u/s 12 of DV Act, against the Petitioner No.1 and his family members, pending before the court of Ld. Principal Judge, Family Court, Dwarka, New Delhi. It has been submitted that however, while the proceedings were underway the parties amicably settled all their disputes, and consequently, the litigations were withdrawn by Respondent No 2.
4. Ld. Counsel submits that the parties have now amicably resolved all their disputes vide MoU dated 21.08.2022 on the following terms and conditions:

“1. It is agreed between the parties that the first party/ husband shall pay to the wife / second party a sum of Rs. 20,00,000/- (Rupees Twenty lakhs only) as full and final settlement amount against her all claims including order of the maintenance for herself as well as minor child, alimony streedhan etc in three installments by way of DD/ Pay order/ Bankers cheque/RTGS.

2. It is agreed between the parties that the first party shall pay the first installment of Rs.7,50,000.00/- (Rupees Seven lakhs fifty thousand only) to wife/ second party at the time of recording of statement of first motion of the petition for Divorce by mutual consent under Section 13 B(1) of Hindu Marriage Act, 1955 and withdrawal of petition under section 13(1) (ia) & (ib) of the Act of 1955 Pending in the Court of Sh. Parveen



Kumar, Principal Judge, Family Courts, Dwarka, New Delhi wherein next date of hearing is 26.08.2022.

3. It is further agreed between the parties that husband shall pay the second installment of Rs.7,50,000/- (Rupees Seven lakhs fifty thousand thousand) to the wife second party at the time of recording of statement of second motion of the petition for Divorce by mutual consent under Section 13 B(2) of Hindu Marriage Act, 1955.

4. It is further agreed between the parties that the second party on the receipt of the second installment amount of Rs.7,50,000.00 shall withdraw all the pending cases, which are as follows:

(i) Mt. No. 620/2017 pending in the Court of Sh. Parveen Kumar, Principal Judge, Family Courts, Dwarka, New Delhi wherein next date of hearing is 26.08.2022;

(ii) No Ex/criminal/156/2022 pending in the Court of Sh. Parveen Kumar, Principal Judge, Family Courts, Dwarka, New Delhi wherein next date of hearing is 07.12.2022;

(iii) Complaint case No. 5003907/ 2016 pending in the Court of Ms. Kritika Jain, Ld. MM (Mahila Court) Dwarka wherein next date of hearing is 05.11.2022;

5. It is further agreed between the parties that husband shall pay the third installment of Rs. 5,00,000/- (Rupees Five lakhs only) to the wife/second party at the time of quashing of FIR No. 619/2016 under Section 498A/406/34 IPC PS: Vikaspuri, which is pending in the court of Ms. Kritika Jain, Ld. MM (Mahila Court) Dwarka, New Delhi, wherein next date of hearing is 03.09.2022. The second party has agreed to cooperate, provide necessary documents, sign all necessary affidavits. appear in person and do needful in quashing FIR in the High Court of Delhi.

6. It is further agreed between the parties that the first motion petition shall be filed within 1 week after signing this MOU.

7. It is further agreed that the custody of master Moditya @ Shivu will remain in the custody of his mother/ second party for his well being and upbringing.

8. It is further agreed between the parties that they have read



and understood the terms and conditions of this settlement in vernacular and they shall remain bound with this settlement.

9. The parties have further agreed that neither party nor their relatives shall make any claim against each other in future and will not file any case/ complaint against the other at any point of time in future in any court of law police station qua this marriage.

10. It is further agreed between the parties that if the wife/ second party backs out of this memorandum of understanding, the amount taken at the time of first motion shall be returned to the husband alongwith 2% interest per month and if the husband/ first party backs out, amount given at the time of first motion shall stand forfeited by the wife/second party.”

5. Ld. Counsel submits that in terms of the above settlement, the parties no longer have any grievance remaining against each other. In terms of settlement, the parties have also been granted divorce by mutual consent vide judgement dated 15.11.2022 of the Ld. Principal Judge, Family Courts, South-West, Dwarka, Delhi. Ld. Counsel submits that since parties have settled, no useful purpose would be served in continuing with the present complaint.
6. The parties have also filed an affidavit regarding the rights and interest of the child to the effect that the settlement arrived at between them shall not affect the right, titles and interest of the child namely Moditya @ Shivu which will be left open as per law.
7. The parties are present in person and have been duly identified by the IO. Respondent No.2/complainant states she has resolved all her disputes with the petitioners and has no grievance against the petitioners. She states that she no longer wishes to pursue the present complaint and has no objection if the same is quashed. Both the



parties have stated that they have entered into the settlement voluntarily without any fear, force or coercion. She states that out of the total settled amount of Rs.20,00,000/- she has already received Rs. 15,00,000/- from the petitioner. She states that the remaining amount of Rs. 5,00,000/- has been received today by her by way of D.D.No.060932 dated 27.12.2022 drawn on Axis Bank, Janakpuri in the name of Shivangi Sharma.

8. I have considered the submissions. Divorce by mutual consent has already been granted to the parties. The complainant/ respondent No.2 does not wish to pursue the present FIR. The chances of conviction would be bleak and remote, given that the complainant does not wish to pursue the present complaint on account of the amicable settlement. In such circumstances continuance of the present FIR would serve no useful purpose and may cause prejudice to the petitioner and be an exercise in futility. I do not see any reason to reject the compromise. This court considers that it is better to put a quietus to the dispute in matrimonial matters where the wrong is basically private or personal in nature and the parties have amicably resolved their entire dispute. The Supreme Court and this Court have time and again held that cases arising out of matrimonial differences should be put to quietus if the parties have arrived upon a genuine settlement. Reliance can be placed on *B.S. Joshi v. State of Haryana*, (2003) 4 SCC 675; *K. Srinivas Rao v. D.A. Deepa*, (2013) 5 SCC 226; *Yashpal Chaudhrani and Others vs. State (Govt. of NCT Delhi) and Another*, 2019 SCC OnLine Del 8179.



9. Considering the totality of facts and circumstances of the case and in view of the submissions of respondent no.2/ complainant, the case FIR No. 0619/2016 dated 26.10.2016 registered under Sections 406/498A/34 IPC at PS Vikaspuri, West Delhi and all proceedings emanating therefrom are quashed.
10. It is pertinent to mention that the male child born out of the wedlock namely Moditya @ Shivu will be free to pursue his legal rights in accordance with law. The parties have entered the settlement only with regard to their rights and titles. The rights and interests of the child to pursue his legal remedies as per law is left open.
11. Accordingly, the present petition stands disposed of.

DINESH KUMAR SHARMA, J

APRIL 25, 2023

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