

\$~29

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

+ **CRL.M.C. 2368/2022**

SAMIR KHAN & ORS.

..... Petitioners

Through: Mr. Mohit Mudgal, Mr. Sandeep,
Ms.Pavitra Bawa, Advs.

versus

STATE & ANR.

..... Respondents

Through: Mr. Hemant Mehla, APP for the State
with Inspector Seema Yadav, PS
Tuglak Road.

Mr. K. K. Jha and Mr.Manish Kumar,
Advs. for R-2.

%

Date of Decision: 16th January, 2023

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. The present petition has been filed for quashing of FIR No. 27/2009 under Sections 498/406/34 IPC registered at PS Tughlak Road, New Delhi. The said FIR was lodged at the instance of the respondent No.2/complainant.
2. Facts in brief are that the marriage between Petitioner no. 1 and

respondent no. 2/complainant was solemnized on 08.01.2008 as per Muslim rites and rituals at Delhi. No child was born out of this wedlock. Thereafter owing to temperamental differences both the parties started residing separately since 18.09.2008. Consequently, respondent no. 2/complainant lodged the present FIR against the Petitioners herein.

3. It has been submitted that Chargesheet in the present case has been filed. Charges have been framed and the matter is pending before the learned MM Court at the stage of prosecution evidence. During the proceedings, the matter was referred to mediation, whereby, the parties entered into a settlement at the Delhi Mediation Centre, Patiala House Court, New Delhi on 31.01.2017 on the following terms and conditions:

“1. That the parties have agreed to go for divorce by way of mutual consent or by getting the pending petition decreed mutually as per Mohammeden law.

2. That the respondent shall pay a sum of Rs.2,50,000/- (Rupees two lakh fifty thousand only) to the complainant in full and final settlement of the claim of the complainant towards stridhan, past, present and future alimony and maintenance which the complainant has agreed to accept.

3. That the complainant shall withdraw her complaint u/s 125 Cr.P.C. pending in the court of Shri B.R. Kedia, Principal Judge, Family Court, Karkardooma, New Delhi on or before 04.02.2017.

4. That the respondent shall pay Rs, 50,000/- (Rupees fifty

thousand only), out of the settlement amount, to the complainant at the time of withdrawal of the petition u/s 125 Cr.P.C.

5. That the respondent shall withdraw the divorce petition pending before the court of Shri A.K. Arya, Ld. Principal Judge, Family Court, PHC, New Delhi on or before 22.02.2017.

6. That the respondent shall further pay Rs. 50,000/- (Rupees fifty thousand only), out of the remaining balance settlement amount, to the complainant at the time of dissolution of marriage.

7. That the complainant shall withdraw her petition u/s 12 of DV Act on or before 22.2.2017.

8. That the respondent shall further pay Rs. 50,000/- (Rupees fifty thousand only), out of the remaining balance settlement amount, to the complainant at the time of withdrawal of the petition u/s 12 of DV Act.

9. That the respondent shall file a quashing petition for quashing of FIR no.27/09 u/s 498A/406/34 IPC PS Tughlak Road, New Delhi within 30 days of dissolution of marriage and complainant shall co-operate in quashing the same.

10. That out of the settlement amount, the respondent shall pay Rs. 1,00,000/- (Rupees fifty thousand only) to the complainant at the time of filling of quashing petition.

11. That the petitioner shall withdraw the two Crl. Misc. (M) petition pending before the Delhi High Court before quashing

of the FIR No.27/2009.

12. That after this settlement, the parties shall not have any claim of any sort against each other or their family members and also ensure that they shall not file any case against each other arising out of this marital discord.”

4. The marriage between the parties has also been dissolved vide decree of divorce under Section 2 (iv) & 2 (viii-a) of the Muslim Marriage Act dated 22.02.2020.
5. In pursuance of the settlement, the remaining amount of Rs.1,00,000/- has also been paid by way of demand draft bearing No. 269802 dated 21.11.2022 drawn on Citi Bank.
6. The petitioners and the complainant/respondent no. 2 are present before this court in person and have been duly identified by the IO. The respondent No. 2 states that she has entered into the settlement voluntarily out of her own free will, without any fear, force or coercion. Respondent No.2 further states that the petitioners have complied with the terms and conditions of the settlement and therefore, she has no objection if the present FIR and all criminal proceedings emanating therefrom are quashed.
7. The dispute between the parties have been settled and continuance of FIR No. 27/2009 would serve no useful purpose and may cause prejudice to the petitioner and be an exercise in futility. The chances of conviction would also be bleak and remote, given that the parties do not wish to pursue the present complaint on account of the settlement. I do not see any reason to reject the settlement. It is better to put a quietus to the dispute in view of the settlement deed arrived at

between the parties voluntarily without any force, fear and coercion. 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. (Refer *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).

8. Considering the totality of facts and circumstances of the case and to prevent abuse of the power of the Court and secure the ends of justice the FIR No. 27/2009 registered at PS Tughlak Road, New Delhi under Sections 498/406/34 IPC and all criminal proceedings emanating therefrom are quashed.
9. Accordingly, the present petition stands disposed of.

DINESH KUMAR SHARMA, J

JANUARY 16, 2023

Pallavi