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

+ **CRL.M.C. 5050/2023**

SANJEEV KUMAR YADAV & ORS. Petitioners

Through: Mr. Ram Naresh, Adv.

versus

STATE OF DELHI & ANR. Respondents

Through: Mr. Digam Singh Dagar, APP for
State and SI Akhil Chaudhary, PS
Seelampur.

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Date of Decision: 24.07.2023.

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 under section 482 CrpC seeking quashing of case FIR No. 116/2018 dated 17.05.2018, under Sections 498A/34 IPC, registered at PS Seelampur and proceedings emanating therefrom. The said FIR was lodged on the complaint of Late Sh. Tirath Ram, who is the husband of respondent No.2 and the father of Smt. Santosh (since deceased).
2. Facts in brief are that the marriage between the petitioner No.1 and Smt. Santosh (daughter of Respondent No.2 namely Smt. Jai Rani and complainant namely Late Sh. Tirath Ram) was solemnized on 02.03.2006 as per Hindu Rites and Customs. One child namely Sonali

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was born out of the wedlock. Thereafter, Smt. Santosh expired on 30.11.2014. Consequently, her father, the complainant, filed an application under section 156(3) CrPC which was allowed vide order dated 08.02.2018 and the present FIR was lodged against the petitioners herein. However later Sh. Tirath Ram also expired on 26.05.2022.

3. Chargesheet has been filed and the matter is pending before the Ld. MM North East, Karkardooma Courts for framing of charge against the petitioners. It has been stated that the father of the petitioner No.1 namely Sh. Ram Singh, who was also chargesheeted, also expired on 08.07.2021.
4. Ld. Counsel submits that while the proceedings were underway, with the intervention of family and well-wishers, the matter has been amicably resolved between the respondent No.2 (mother of the deceased Santosh) and the petitioners herein vide MoU dated 27.03.2023 on the following terms and conditions:

“1. That the daughter of party no.1 and Late Sh. Tirath Ram was married to party no.2 on 02.03.2006 and she had expired on 30.11.2014.

2. That out of wedlock of party no.2 and deceased daughter of party no.1 a female baby namely Sonali was born out who is presently in care and custody of party no.2 since her birth.

3. That after the death of deceased Smt. Santosh i.e. daughter of party No.1 her husband filed the complaint U/s 156(3) of Cr.P.C. and the Ld. M.M., was pleased to direct the P.S. Seelampur to register an FIR bearing



No.116/2018, P.S. Seelampur, Delhi against the party No.2 and his family members.

4. That now the husband of the party no.1 had also been expired and the party No.2 is taking proper care, educational and all kinds of expenses / need of baby Sonali so the party no.1 have settled the matter with the party.

5. That the party no.2 has given full assurance to the party no.1 that he will take care the baby Sonali in all kinds of aspects as per his capacity.

6. That the party no.1 will assist the party no.2 to get the FIR quashed before Hon'ble High Court of Delhi and all the proceedings arising of the FIR as the charge sheet has already been filed.

7. That the matter has been settled between both the parties as they are related with each other.

8. That the matter mentioned above has been settled between parties to this M.O.U. as they have settled their dispute with the help of their respective family, friends and respectable of the society.

9. That is has been agreed between the parties to this M.O.U. that the party No.1 do not want any legal action against the Party No.2 and his family members.

10. That both the parties hereby agreed that this memo of understanding is irrevocable and unquestionable and would inter-alia be legally valid, binding and enforceable and executable in all aspects with true spirit of this Memo of Understanding and none of the parties shall be at liberty to take advantage of any technical language or lacuna or mis-inter-pretating the same."



5. The parties are present in person and have been duly identified by the IO. Respondent No. 2 states that she has entered the settlement voluntarily without any fear, force or coercion and has no objection if the present FIR and all consequent proceedings arising therefrom are quashed. Respondent No. 2 states that the child born out of the wedlock namely Sonali is under the care and custody of the petitioner No.1 (father) who has also assured to bear all the expenses of the child. It has been submitted by both the parties that the rights and interests of the child however shall not be affected by the settlement arrived at between the parties. The child will be open to pursue her legal rights as per law.
6. I have considered the submissions. The parties have amicably and voluntarily settled all their disputes vide MoU dated 27.03.2023. The complainant who was the father of Smt. Santosh has already expired. The respondent No. 2 who is the wife of the complainant and the mother of Smt. Santosh, no longer wishes to pursue the present FIR. The chances of conviction would be bleak 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 settlement. 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.

7. Considering the totality of facts and circumstances of the case and in view of the submissions of respondent no.2, the case FIR No. 116/2018 dated 17.05.2018, under Sections 498A/34 IPC, registered at PS Seelampur and all subsequent proceedings arising therefrom are quashed.
8. It is pertinent to mention that the child born out of the wedlock namely Sonali will be free to pursue her legal rights in accordance with the law. The parties have entered into a settlement only with



respect to their rights and titles. The rights and interests of the child to pursue her legal remedies as per law is left open.

9. Accordingly, the present petition stands disposed of.

DINESH KUMAR SHARMA, J

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