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

+ **CRL.M.C. 3790/2022**

ISHRAR ALI

..... Petitioner

Through: Mr.Gaurav Jain and Mr.S.Haider,
advocates

versus

STATE (GOVT OF NCT OF DELHI) AND ANR & ANR.

..... Respondents

Through: Mr.Digam Singh Dagar, APP for the
State.
SI Arvind Kumar Saini, PS Aman
Vihar

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Date of Decision: 26.04.2023

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 FIR No.130/2012 dated 18.05.2012 registered under Section 498A/406/34 IPC at P.S. Aman Vihar. The FIR was lodged on the statement of Jainab Bano/respondent no.2. After investigation, charge sheet has been filed.
2. The facts, in brief, are that petitioner No. 1 namely Ishrar Ali, was married to respondent No. 2 on 12.06.2008 according to Muslim rites and ceremonies in Sultanpur (U.P.) and thereafter Respondent No.2 was taken to her matrimonial home at the house of Petitioner

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No.1 and a girl child named “Anjum” was born on 17.6.2009 out of the wedlock. Thereafter, due to temperament differences, the parties started residing separately. Consequently, Respondent No. 2 lodged an FIR No. 130/2012, U/s 498-A/406/34 IPC, P. S. Aman Vihar, Delhi against the petitioners on 18.05.2012.

3. It has been submitted that subsequently during the pendency of the proceeding in the trial court, both parties arrived at a settlement before the Mediation Centre, Rohini Courts, Delhi on 15.09.2021. the settlement agreement dated: 15.09.2021 has been placed on record which specifically states that the settlement will not affect the rights of the child in any manner. The terms and conditions of the settlement agreement are reproduced hereunder: -

“1) The JD /husband Mohd. Isharar Ali will give divorce to the complainant/DH/wife as per customs of Muslim Law applicable to parties and the complainant/DH/wife shall assist the accused/JD/husband in quashing of FIR in question.

2) In full and final settlement of all the claims of the wife Smt. Jainav Banno on account of maintenance (past, present, & future), istridhan, dowry articles, inheritance, properties, etc., the JD/respondent/husband will pay a sum of Rs. 3,00,000/- (Rs. Three Lacs Only) as under: -

i) Out of the aforesaid amount of Rs. 3,00,000/- JD/husband will give Rs. 50,000/- to the DH/wife today itself and Rs. 1,50,000/- (Rupees One Lakh Fifty Thousand) shall be given by the JD/husband to the DH/complainant/wife before the Ld. Concerned Court on 04.10.2021.

ii) The JD/respondent/husband will give Rs. 1,00,000/- (Rs. One Lakh only) to the DH/Complainant/wife Smt. Jainav Banno at the

time of quashing of FIR No. 130/12, U/s 498A/406/34 IPC. PS Aman Vihar and the DH/wife/complainant shall assist the accused in quashing of FIR in question.

3) If the JD/husband defaults in compliance of the terms & conditions of this settlement, the amount paid would be forfeited by the DH/complainant/wife and if the DH/complainant/wife resiles, she would be liable to refund/restore all the benefits drawn by her under this agreement.

4) In terms of the present settlement, the DH/complainant/wife shall withdraw the connected cases before the concerned court on next date of hearing i.e., 04.10.2021.

5) Once the settlement is taken to its logical conclusion, there would remain no dispute between the parties.

6) Whatever cost of litigation has been incurred by any of the parties till date would be borne by them.

7) It is undertaken by the respective parties that in future, they will not interfere in the life of each other.

8) If any of the parties has filed any case/complaint/petition against the other party (whether known to that party or not), it would be treated as null and void on completion of this settlement and it shall be the obligation of the said party who has filed such complaint case/petition to withdraw the same on its own."

4. As per the settlement, respondent no. 2/complainant has already been paid Rs.2,00,000/- (Rs. Two Lacs Only) by the petitioner as per the settlement agreement. It is further submitted that at the time of settlement, petitioner paid a sum of Rs.50,000/- before the Mediator at the Mediation Centre, Rohini Courts, Delhi on 15.09.2021 and a sum of Rs.1,50,000/- on 4.10.2021 before the

Court of Ms. Seema Maini, Principal Judge, Family Courts, North-West, Rohini, Delhi in cash to respondent no. 2.

5. Learned counsel submits that since the parties have amicably resolved all the disputes between them, thus no useful purpose will be served by continuing with the present complaint.
6. The parties are present and have been duly identified by the IO. Respondent No.2/wife has stated that owing to temperamental differences they started residing separately. She has stated that however, now she has amicably settled all the disputes with the petitioners and wants to put a quietus to the same. She has stated that as per the settlement agreement the petitioner No.1 had to pay her a total amount of Rs. 3,00,000/- (Rupees Three lakhs only) and the same has been received by her. She has stated that she has amicably settled with the petitioners out of her own free will, without any fear, force or coercion. She states that the marriage has already been dissolved by a decree of divorce dated 20.11.2021. the respondent no. 2 also states that she has already received the entire amount and she has already remarried. She has stated that she has no more grievance against the petitioners and has no objection if the present FIR and all consequent proceedings emanating therefrom are quashed.
7. I have considered the submissions and this court considers that it is better to put a quietus to disputes of matrimonial nature wherein the parties have amicably settled all their disputes and no longer wish to pursue the complaint on account of such settlement. In the present

case, the dispute between the parties has been settled and continuance of FIR No. 130/2012 would serve no useful purpose and may cause prejudice to the petitioners and be an exercise in futility. The chances of conviction would be bleak 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. Moreover, the parties have already been granted a divorce and the settled amount has already been paid to the complainant. The Supreme Court and this Court have time and again held that cases arising out of matrimonial disputes 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.

8. 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. 130/2012 registered under Sections 498-A/406/34 of the Indian Penal Code, 1860 at P.S. Aman Vihar and all criminal proceedings emanating there from.
9. Accordingly, the present petition stands disposed of.

DINESH KUMAR SHARMA, J

APRIL 26, 2023

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