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

+ **CRL.M.C. 4384/2022**

TEJ PAL & ORS.

..... Petitioners

Through: Mr. Jitendra Singh, Adv. with
petitioners.

versus

STATE OF NCT DELHI AND ANR.

..... Respondents

Through: Mr. Hemant Mehla, APP and SI
Hemant and ASI Parmanand, PS
Sultanpuri.

Mr. Prashant Yadav and Ms. Laxmi
Gaur, Advs. for R-2.

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Date of Decision: 22.08.2023.

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 FIR No. 747/2016 under section 498A/406/34 of IPC at P.S. Sultanpuri on the grounds of settlement.
2. Learned Counsel for the petitioner submits that Respondent no.2/complainant married petitioner no.1 on 29.04.2013 in accordance with the Hindu Rites and Ceremonies. Out of the said wedlock one

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child namely Baby Hithashi was born on 12.11.2014. However, on account of temperamental differences and mental incompatibility, the parties started living separately since June 2015 and instituted multiple litigations against each other and their respective families including the present FIR.

3. Learned Counsel further submits that during the pendency of the proceedings, the parties have resolved their disputes amicably and in furtherance thereof they have entered into a settlement agreement dated 17.09.2018 before the Delhi Mediation Centre, Rohini District Courts. As per the settlement it has been agreed between the parties that the petitioner shall pay Rs. 7,40,000/- (Seven lakh and forty thousand rupees only) in full and final settlement of the entire dispute to respondent no. 2/complainant.
4. Pursuant to the settlement, a mutual divorce petition was also filed and a decree of divorce was granted vide order dated 18.01.2020 passed by Learned Principal Judge, Family Courts, West, Tis Hazari Courts, Delhi.
5. Furthermore, the Learned Counsel for the petitioners submits that since the parties have resolved all their differences amicably, therefore, it would be in the interest of justice to quash FIR No. 747/2016 under section 498A/406/34 of IPC at P.S. Sultanpuri and all the proceedings emanating therefrom.



6. I have gone through the settlement which has been placed on record. The settlement agreement provides for the following terms and conditions:

“1) The parties shall get dissolved their marriage by a decree of divorce by mutual consent without leveling allegations and counter-allegations against each other in accordance with law before the Court of competent jurisdiction at Delhi.

2)The parties have settled all their disputes and differences for a total sum of Rs.7,40,000/- (Rupees Seven Lakh Forty Thousand Only) as full and final settlement of the all the claims of complainant/wife with regard to maintenance (past, present and future), permanent alimony, stridhan, dowry articles, maintenance and maintenance of child etc.

3)The settlement amount of Rs.7,40,000/- (Rupees Seven Lakh Forty Thousand Only) shall be paid by the respondent/husband to the complainant/wife by way of cash/DD, in the following manner :-

i)Rs.2,40,000/- (Rupees Two Lakh Forty Thousand Only) at the time of recording statements in First Motion Petition Under Section 138(1) of Hindu Marriage Act which shall be filed by the parties jointly on or before 15.10.2018.

ii)Rs.2,50,000/- (Rupees Two Lakh Fifty Thousand Only) at the time of recording statements in Second Motion petition Under Section 1.3B(2) of Hindu Marriage Act which shall be filed by the parties jointly within the stipulated period of six months or if the funds arrange and parties want to file it earlier then they may file an I appropriate application, in accordance with law.



iii)Rs.2,50,000/- (Rupees Two Lakh Fifty Thousand Only)at the time of quashing of aforementioned FIR No.747/16 P.S. Sultanpuri, U/s 498A/406/34 IPC, titled State Vs. Tejpla & Ors.' which shall be filed by the accused persons before the Hon'ble High Court of Delhi within three month of passing of decree of divorce in second motion. The complainant/wife shall cooperate in quashing of the aforesaid FIR and shall appear and make necessary statement before the Hon'ble High Court of Delhi, if required.

4)In terms of the present settlement, complainant/wife shall withdraw the present case from the Ld Referral Court on date fixed i.e. .05.11.2018. The connected Divorce Petition shall be withdrawn by the respondent/husband tomorrow i.e. 18.09.2018.

5)It is further settled that in case of default on the part of complainant/wife, complainant/wife shall have to refund the same with 2% interest per month and in case of default on the part of respondent/husband, the amount already paid by him shall be forfeited by the complainant/Wife.

6)It is further settled that out of the aforementioned settlement amount of Rs.7,40,000/- (Rupees Seven Lakh Forty Thousand Only), complainant shall invest at lease Rs. 2,50,000/- (Rupees Two Lakh Fifty Thousand Only) in the name of minor daughter Hitashi and the same shall be informed to the respondent/husband at the time quashing petition.

7)Both the parties undertake not to interfere in the life of each other in future.

8)In terms of the present settlement, there shall remain no case/dispute between the parties qua the marriage of the complainant and respondent and that none of the parties shall file any civil or criminal proceedings against each



other in future qua the same and that if any other case/petition/complaint etc. between the parties is pending in any Court or Authority, the same shall be withdrawn/got disposed of by the respective party.”

7. In terms of the above settlement conditions, out the total amount of Rs 7,40,000/- (Seven lakh and forty thousand rupees only), the remaining amount of Rs. 2,50,000/- (Two lakhs and Fifty Thousand Rupees) is paid today to the respondent no. 2 vide a D.D. bearing No. 940656 dated 05.07.2023 in the name of Neha drawn from Kotak Mahindra bank.
8. Further, it has been stated by Sh. Tejpal (Father) and Smt. Neha (Mother) that the mutual settlement deed dated 17 September 2018 arrived between them shall not bind the legal rights, title, and interest of the child namely Baby Hithashi aged 09 years, in any manner. Baby Hithashi shall be at liberty to pursue her legal rights in accordance of law.
9. It is settled that the inherent powers under section 482 of the Code are required to be exercised to secure the ends of justice or to prevent abuse of the process of any court. Further, the High Court can quash non- compoundable offences after considering the nature of the offence and the amicable settlement between the concerned parties. Supreme Court and this Court have repeatedly held that the cases arising out of matrimonial differences should be put to a quietus if the parties have reached an amicable settlement. Reliance may be placed upon: **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.

10. Both parties are present in court and have duly been identified by the IO. Respondent no. 2 submits that she has entered the settlement voluntarily without any fear, force or coercion. She submits that other petitions have already been withdrawn or dismissed. And since the marriage between the parties has also been dissolved by a decree of divorce by mutual consent order/judgment dated 18.01.2020, she has no objection if FIR No. 747/2016 under section 498A/406/34 of IPC at P.S. Sultanpuri and all the proceedings emanating therefrom are quashed.
11. Taking into account the totality of facts and circumstances of the case, this court considers that the parties have entered into an amicable settlement out of their own free will, without any fear, force or coercion and they should be given an opportunity to lead their lives peacefully. No purpose will be served in continuing with the trial.
12. In view of the above, FIR No. 747/2016 under section 498A/406/34 of IPC at P.S. Sultanpuri and all the other proceedings emanating therefrom are quashed.
13. The present petition along with all the pending applications stands disposed of.



DINESH KUMAR SHARMA, J

AUGUST 22, 2023/AR

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