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

+ **CRL.M.C. 4621/2022.**

SMT. KAMLA GUPTA & ORS.

..... Petitioners

Through: Mr.Vinod Kumar Khanna,
Advocate with petitioners in person.

versus

THE STATE GOVT. OF NCT OF DELHI & ANR. Respondents

Through: Mr.Raghvinder Verma, APP for the
State
Mr.Vimal Dhingra, Adv. for R-2 with
R-2 in person.

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Date of decision: 06.04.2023

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 seeking quashing of FIR No. 0471/2017 dated 04.09.2017 registered at PS Neb Sarai, South Delhi, under Sections 498A/406/354/354(A)/509/34 IPC. 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. 4 and respondent no. 2/complainant was solemnized on 07.03.2011 as per Hindu rites and customs in Delhi. Two children were born out of this wedlock. Thereafter owing to temperamental differences the respondent no. 2/complainant got registered the present FIR against the petitioners. Chargesheet has been filed and the matter is pending adjudication before the learned MM, Mahila Courts, Saket Courts, Delhi.

3. In addition, the respondent No. 2 had also filed a complaint under

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section 12 of DV Act before the learned MM Mahila Courts, Saket Courts against the petitioner which has been withdrawn on account of settlement arrived at between the parties vide order dated 21.05.2022. Moreover, petitioner No.3 had filed a criminal revision petition titled *Om Prakash Gupta vs. State & Anr.* before the learned ASJ, Saket Courts and after the settlement and execution of MoU, the said revision petition has also been withdrawn.

4. Learned counsel for the petitioners submits that while the present proceedings were underway, with the intervention of family members and well-wishers, the parties arrived at an amicable settlement vide MoU dated 10.04.2022 on the following terms and conditions:

“1. That it has been agreed, settled and resolved that in order to save the matrimonial life of the above named husband and wife and their children and to meet up the main concerns of the wife namely Pooja Gupta, the party no. 2 of second party will provide the non-refundable financial assistance to the first party namely Pooja Gupta and party no. 1 of the second part namely Pawan Gupta and out of this non-refundable financial aid and help of provided by party no. 2 of second party, the above named husband and wife shall purchase a residential accommodation as well as the party no. 2 of second party shall strengthen and establish his business so as to enable him to meet up the day to day requirements of the matrimonial life and the first party, party no.1, 3 and 4 of second part shall live jointly and peacefully in the said residential house.

2. That the first party has agreed to withdraw the aforesaid litigation from the respective court of law.

3. That in order to quash the aforesaid FIR No.471/2017 dated 4.9.2017 P.S. Neb Sarai, Distt. South under Section 498-A/406/354/354-A/509/34 IPC and the proceedings

contaminated therefrom, a quashing petition shall be filed before the Hon'ble High Court of Delhi with the consent of first party and the first party has agreed to file her no objection for quashing of the aforesaid FIR as well as appear in person and make a statement before the Hon'ble High Court of Delhi as and when required and shall further cooperate with the second party in this regard.

5. That the first party shall further withdraw the complaint filed by her under D.V. Act against the second party.

6. That the party no.2 of second part shall withdraw above mentioned criminal revision from the concerned court.

7. That the parties to the present MOU specially first party and party no.1 of second party shall live peacefully as husband and wife alongwith their children and mother-in-law and father-in-law of first party as a family.

8. That the first party has agreed to withdraw any complaint or litigation, if filed and pending before any statutory authority/court beyond the litigation referred above.

9. That parties to the present MOU have agreed to live peacefully in future.

10. That the present MOU has been signed and executed amongst the parties without any force, coercion, pressure or undue influence from any corner whatsoever and out of their own sweet will and consent.”

5. Learned counsel for the petitioner submits that in terms of the above settlement the parties have amicably resolved all their disputes and are now residing together with each other as husband and wife since past five months. Learned counsel submits that since the parties have settled all their

disputes and the complainant does not wish to pursue the present complaint, no useful purpose would be served with the continuation of the present complaint and the subsequent proceedings arising therefrom and seeks quashing of the same.

6. It has been submitted that the petitioner No.4 i.e. the husband was initially not traceable and vide order of this Court dated 16.09.2022 the state was directed to trace out the petitioner No.4 and produce him before this Court. In terms of the order dated 16.09.2022 the petitioner No.4/husband has been traced out and is now stated to be living happily with the respondent No.2/wife.

7. The petitioners and the complainant/respondent no. 2 are present before this court in person and have been duly identified by the IO. Complainant/respondent no. 2 states that she was married to the petitioner No. 4 namely Pawan Gupta on 07.03.2011. She states that two children were born out of wedlock. She states that she has amicably settled all the disputes with the petitioners and wants to put a quietus to the same. She further states that the petitioner No.4 and her are living together as husband and wife, happily and peacefully for the past five months. She states that she has settled the dispute voluntarily out of her own free will, without any fear, force or coercion and has no objection if the present FIR and all criminal proceedings emanating therefrom are quashed.

8. I have considered the submissions and perused the records. The parties have amicably settled all their disputes and are living together as husband and wife for the past five months. The complainant/ respondent No.2 does not wish to pursue the present FIR. In such circumstances continuance of FIR No.0471/2017 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 complainant does not wish to pursue the present complaint on account of the amicable settlement. I do not see any reason to reject the compromise especially since the parties have been residing together for the past five months now and have settled all their disputes. 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/ Ms. Pooja, the case FIR No. 0471/2017 dated 04.09.2017 registered at PS Neb Sarai, South Delhi, under Sections 498A/406/354/354(A)/509/34 IPC and all proceedings emanating therefrom are quashed.

10. Accordingly, the present petition stands disposed of.

DINESH KUMAR SHARMA, J

APRIL 6, 2023

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