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

+ **CRL.M.C. 5030/2022**

ANOOP KUMAR

..... Petitioner

Through: Ms. Sarita Bhati, Adv.

versus

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

..... Respondents

Through: Mr. Hemant Mehla, APP for State
and SI Harender Kumar, PS Lahori
Gate.

Ms. Anjali Chauhan, Adv. for R-2.

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Date of Decision: 19.07.2023.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. This is a petition seeking quashing of case FIR No. 122/2021 dated 22.03.2021, under Sections 498-A/406/34 IPC, registered at PS Lahori Gate and proceedings emanating therefrom. The said FIR was lodged at the complaint of the respondent No.2/wife.
2. Facts in brief are that the marriage between the petitioner No.1 and Respondent No.2/complainant was solemnized on 19.02.2009 as per Hindu Rites and Customs. One child namely Ishaank was born out of the wedlock. Thereafter differences started erupting between the

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parties and consequently, the respondent no. 2 lodged the present FIR against the petitioners.

3. It has been submitted that while the matter was pending, the parties arrived at an amicable settlement vide settlement agreement dated 25.11.2021 before the Counselling Cell, Family Court THC, Delhi on the following terms and conditions:

“1. That the Petitioner and Respondent have agreed to dissolve their marriage by mutual consent in accordance with law provides u/s 13 (B) of the Hindu Marriage Act.

2. It is agreed between the parties that husband shall pay to the wife a sum of Rs.4,00,000/- (Four lacs only) as full and final settlement (against istridhan and dowry, maintenance towards post, present and future qua this marriage in 2 installment by way of DD/PAY order.

3. It is further agreed between the parties that the husband will pay Rs. 2,00,000/- (Two Lakh Only) to the wife at the time of recording of the statement of first motion by the way of DD/Pay order.

4. It is further agreed between the parties that the husband will pay Rs. 2,00,000/- (Two Lakh Only) to the wife at the time of recording of the statement of first motion by the way of DD/Pay order.

5. It is agreed between parties that the first motion petition shall be filed on or before 17.01.2022 and second motion petition shall be filed soon after the completion of the period of the statutory period of the order U/s 13 B (1) of HMA.

6. It is further agreed between the parties that the shall pay Rs. Nil to the at the time of recording of statement in quashing of FIR No. 0122/21 U/s 498A,406,341 PC, PS Lohri Gate in Hon'ble High Court of Delhi within 2 month after second motion and wife shall co-operate and



sign all the necessary affidavit and do the needful in quashing of the said FIR.

7. There is/are 1 child/children Son namely Ishaank (11 Years Old Son) from this wedlock who is/are living with the Mother. It is agreed between the parties that custody will be with Mother. The Father will have visitation right, once in month at Public Place.

8. It is further agreed between the parties that the petitioner/respondent will withdraw the case which is pending in the court of Sh. Bupesh Kumar Ld. Judge family Court Cetral Tis Hazari Court.

9. It is agreed between the parties that they have understood the terms and conditions of the settlement.

10. It is further agreed between the parties that they shall remain bound with the aforesaid terms and conditions and mentioned in the settlement.

11. All the matters relating to this marriage either civil or criminal are settled and neither the parties nor their relatives shall make any claim against each other in future and will not file any case/complainant against each other and any time future in all court of law/Police Station etc.

12. It is agreed between the parties that if either of the parties commits breach or defaults of this mutually agreement settlement after the first motion if wife back out of the amount taken at the time of first motion shall be return to Husband with 02% pm interest and if Husband backs out the amount given at the time of first motion shall stands forfeited by the wife.

13. The parties have agreed on each and every terms as recorded in the settlement, after carefully reading over and fully understanding and appreciating the contents, scope and effect thereof, as also the consequences of the



breach thereof, including payment of the file/penalty as mentioned above.

14. The terms and conditions mentioned in the settlement have been understood in vernacular. The above said settlement is arrived at between the parties out of their own free will, consent and without their being any undue pressure, coercion, influence, misrepresentation or mistaken (both law and fact) in any form whatsoever and the parties agreed that the settlement agreement has correctly recorded the said agreed terms and conditions.”

4. Learned counsel submits that in terms of the aforesaid settlement on 25.11.2021, the parties moved the concerned court seeking divorce by way of mutual consent which was granted vide judgement dated 07.06.2022 by the Ld. Judge, Family Courts, Central District, Tis Hazari Courts, Delhi.
5. The parties are present in person and have been duly identified by the IO. Respondent No. 2/complainant states she was married to the petitioner No. 1 on 19.02.2009. One child namely Ishaank was born out of the wedlock, who remains in her care and custody and the petitioner No.1 shall have visitation rights. She states that the marriage between her and petitioner No.1 was dissolved vide decree of divorce dated 07.06.2022. She states that as per the settlement agreement the petitioner No.1 has to pay her Rs. 4,00,000/- towards the full and final settlement of all her claims (past, present and future). She states that she has already received the entire settled amount. She



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. An affidavit of no objection on behalf of the respondent No.2/complainant has also been filed along with the present petition. It has been submitted by both the parties that the rights and interests of the child shall not be affected by the settlement arrived at between the parties. The parties have also made a joint statement to this effect stating that their settlement shall not affect the rights, titles, or interests of the child namely Ishaank, in any manner, who will be open to pursue his legal rights as per law.

6. I have considered the submissions. The parties have amicably settled all their disputes and have been granted divorce by mutual consent. The complainant/ respondent No.2 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/ complainant, the case FIR No. 122/2021 dated 22.03.2021, under Sections 498-A/406/34 IPC, registered at PS Lahori Gate and all subsequent proceedings arising therefrom are quashed.
8. It is pertinent to mention that the child born out of the wedlock namely Ishaank will be free to pursue his 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 his legal remedies as per law is left open.
9. Accordingly, the present petition stands disposed of.

DINESH KUMAR SHARMA, J

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