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

+ **CRL.M.C. 5244/2022**

MOHD ATHAR SHARIQUE

..... Petitioner

Through: Mr.Manoranjan, Adv.

versus

STATE OF NCT OF DELHI AND ANR.

..... Respondents

Through: Mr. Digam Singh Dagar, APP for the
State with SI Pushpa PS Janakpuri.

Mr. Amit Kumar, Mr. Nihal Ahmad,
Mr. Shantanu Shukla and Ms.
Kshama Kumari, Advs. for R-2.

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Date of Decision: 24th April, 2023

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

24.04.2023

DINESH KUMAR SHARMA, J. (Oral)

1. The present petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No. 175/2019 registered at PS Jama Masjid under

CRL.M.C. 5244/2022

Page 1 of 6

Sections 490A/406/34 IPC.

2. Petitioner No.1 was married to respondent No. 2 on 03.04.2015. Allegedly, the in-laws of the respondent no. 2/wife harassed her and demanded dowry. On the basis of allegations of the constant demand for dowry and mental and physical harassment, FIR No. 175/2019 was registered at PS Jama Masjid under Sections 498A/406/34 IPC . There were other allegations in the FIR also regarding the sexual incompetence of the petitioner No.1. However, learned Counsel for the petitioners submits that during the pendency of the proceedings, the parties have reached on settlement vide MoU dated 18.04.2022 on the following terms and conditions:

“1. That on fulfillment/completion of all terms and conditions so enumerated herein below, the second party at the instance of the first party agrees and undertakes to end the marriage relationship of husband and wife between the parties and give Divorce/Talaq to the first party as per Shariat/Muslim Law and the same has been/ will be duly accepted by the first party, in the presence of witnesses to be then present, on which the first party would cease to be the wife of the second party and the first party will be at liberty 'to perform her marriage with anyone else without any interruption or obstruction from the side of the second party and his family members and likewise the second party would also cease to be the husband of the first party and the second party will be at liberty to perform his marriage with any other girl/woman without any objection of the first party or her family members.

2.That the first party and second party have already exchanged their respective movable articles including all stridhan belonging to the first party to the satisfaction of both the parties and their family members.

3.That the first party undertakes to pay Rs. 15 lakhs being

half of the agreed consideration amount for prevalent price i.e. Rs. 30,00,000/(Rupees Thirty lakhs Only) of property bearing No. 459, Second Floor, Gali No. 37, Zakir Nagar, Okhla, New Delhi belonging to the second party and already in the possession of the first party being a permissive user as wife of the second party. For having retained the aforementioned flat bearing No. 459, Second Floor, Gali No. 37, Zakir Nagar, Okhla, New Delhi, the FIRST PARTY agrees that the same would also include present, past and future alimony, mehr and amount towards the iddat period etc. No claim of any kind whatsoever would remain of the FIRST PARTY towards the SECOND PARTY, after the dissolution of the marriage between the parties.

4. That in view of the first party having retained the possession of the aforementioned flat/property i.e. property bearing No. 459, Second Floor, Gali No. 37, Zakir Nagar, Okhla, New Delhi and also in view of this Memorandum of Understanding being executed between the parties, the second party being the owner of the said property undertakes to execute all the necessary sale/ title documents so permissible/prevalent in the area where the aforementioned flat is situated, after the FIRST PARTY withdraws the cases as per the schedule mentioned below)

(a) FIRST PARTY has undertaken to move the respective courts where the two petitions i.e. cases under the Protection of Women from Domestic Violence Act, 2005 (Case No. 18719/2018) and under section 125 of the Code of Criminal Procedure (Case No. 32/2019) which are pending in the Court of Ms. Poorva Mehra, Ld. MM Tis Hazari Courts Delhi and Shri Bhupesh Kumar, Ld. Principal Judge, Family Court, Tis Hazri Court, Delhi, respectively and will withdraw the cases unconditionally, in view of two of this Memorandum between the parties.

(b) In pursuance to an oral agreement and understanding between the parties, the SECOND PARTY has pronounced and given FIRST TALAQ by the

mode of TALAQ-E-HASAN to the FIRST PARTY on 16.03.2022 and has pronounced and given SECOND TALAQ by the same mode on 15.04.2022 duly acknowledged by the FIRST PARTY and SECOND PARTY In writing and the second party will give THIRD TALAQ as per SHARIYA LAW.

(c)After withdrawal of the aforementioned two cases so mentioned in Para No. 4(a), the FIRST PARTY has consented and agreed that the SECOND PARTY would be at liberty to move the Hon'ble High Court of Delhi for quashing of aforementioned FIR No. 175/2019 registered under section 498A/406/34 of the Indian Penal Code, registered against the second party and his family members at P.S. Jama Masild (within one month of the withdrawal of the aforementioned two pending cases before the trial court by the FIRST PARTY) and as and when the said petition is listed before the Hon'ble High Court of Delhi, the FIRST PARTY undertakes and promises to appear before the Hon'ble High Court of Delhi in person and give statement to the effect before the Hon'ble High Court of Delhi that she has no objection, If the aforementioned F.I.R. is quashed by the Hon'ble High Court of Delhi. On recording of her such statement before the Hon'ble High Court of Delhi, the first party has promised and undertaken to pay the consideration money of Rs. 15,00,000/-(Rupees fifteen lacs) only to the second party before or at the time of the receipt of all the relevant documents/ papers of the flat in question from the second party.

5. That in view of the aforementioned settlement, the first party undertakes not to claim any money on any account whatsoever from the second party and not to claim any right/ share in the movable and immovable properties of the second party, brothers of the second party and his parents.

6. That on completion of the entire process as aforementioned thereafter none of the parties shall institute

any case in any court against each other or their respective family members.

7. That the FIRST PARTY undertakes and has-assured the SECOND PARTY that she does not have any documents belonging to the SECOND PARTY or any of his family members and that FIRST PARTY would not use or misuse any document 'if she comes in possession of the said documents belonging to the SECOND PARTY or of any of his family members.

8. That this Memorandum of Settlement has been executed by the parties after understanding the contents in their vernacular language and with their free Will and consent without any force, fraud, pressure and undue Influence."

3. Petitioner No.1 and Respondent No.2 are present in court and have duly been identified by the IO. They state that they have resolved all their disputes voluntarily against all claims (past, present and future) without any fear, undue influence or coercion. Their marriage has already been dissolved and in terms of the settlement, respondent No.2 has paid Rs. 15,00,000/-to the other party. Respondent No.2 further states that she is residing in Flat No.459, 2nd Floor, Gali No. 37, Zakir Nagar, Okhla, New Delhi and the same has already been mutated in her name. She states that she has already withdrawn the petition under Section 125 Cr. PC and Domestic Violence and that she has no objection if the present FIR is also quashed.
4. In view of the submissions made and the facts that the marriage between the parties stands dissolved, it is in the interest of justice if the present FIR along with all the proceedings emanating therefore are quashed. Hon'ble 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

5. Accordingly, FIR No. 175/2019 registered at PS Jama Masjid under Sections 490A/406/34 IPC and all the proceedings emanating, therefore, are quashed and the present petition along with all the pending applications stands disposed of.

DINESH KUMAR SHARMA, J

APRIL 24, 2023

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