

\$~23

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

+ CRL.M.C. 5361/2022 & CRL.M.A. 21288/2022

MOHD GAYASUDDIN & ORS.

..... Petitioners

Through: Mr. Kamal Kr. Ghai and Mr. Vikas
Kumar, Advocates.

versus

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

..... Respondents

Through: Mr. Digam Singh Dagar, APP for the
State with ASI Rajnesh, PS Ranhola.
Mr. Arvind Kumar, Advocate for
Respondent No. 2.

%

Date of Decision: 14th March, 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. 812/2017 dated 21.11.2017 under Sections 498A/406/34 IPC registered at PS Ranhola, Delhi. The said FIR was lodged at the instance of respondent No.2/complainant.

2. Facts as alleged in the petition are that the marriage between Petitioner no. 1 and respondent no. 2/complainant was solemnized on 23.01.2014 as per Muslim rites and rituals at Delhi. No child was born out of this wedlock. Thereafter the respondent No. 2/ complainant left for her

parental home on 26.04.2014 for post marriage rituals and returned to her matrimonial house on 30.01.2014. Shortly thereafter, respondent No. 2/complainant was diagnosed with kidney stone on 05.02.2014 and on 13.02.2014 i.e. just around 20 days after marriage she left the matrimonial house. Despite persuasion she did not return to her matrimonial house.

3. It has been submitted that the petitioner No. 1 filed a petition for restitution of conjugal rights under section 9 of HMA however the same was disposed of. Respondent no. 2 /complainant filed a case under Section 12 of Domestic Violence Act, 2005 (DV Act) against the petitioners which is pending before the Ld. MM (West), Tis Hazari Courts, Delhi. Respondent No. 2 also lodged a complaint with P.S. CAW Cell, Kirti Nagar, Delhi. On the basis of which the present FIR No. 0812/2017 u/s 498A/406/34 IPC came to be registered at P.S. Ranhola, Delhi, against the petitioners herein. Charge-sheet has been filed but the Charges are yet to be framed.

4. It has been submitted that while the proceedings under section 12 DV Act were underway, the parties arrived at a settlement. The statement of the parties were recorded and the petition was disposed of as withdrawn on account of settlement arrived between the parties. The same is recorded in the order dated 25.01.2021 of the learned MM (West), Tis Hazari Court, Delhi and is reproduced hereunder:

***“MC No.5552362/2016
NAZRANA PRAVEEN VS. MOHD. GAYASUDDIN & Ors.
PS: RANHOLA***

25.01.2021 (physical hearing)

***File taken up today on a joint application moved on 22
01.2021 on behalf of parties that the matter has been settled.***

*Present: Petitioner in person with Ld. Counsel Sh. Feroze Ahmad.
Respondent no.1 in person with Ld. Counsel Sh. Vikas Kumar.*

Fresh Vakalatnama filed on behalf of petitioner. It be taken on record.

Both the parties have submitted that the dispute pertaining to present case has been settled between the parties out of the Court with the intervention of respectable family members as mentioned in the joint compromise application filed on 22.01.2021.

The matter has been settled between the parties and out of the total amount of Rs.1.5 Lakhs, respondent no.1 has handed over one Demand Draft for sum of Rs.1 Lakh dated 20.01.2021 of Punjab National Bank, Patparganj, Delhi to the petitioner. Copy of the same is placed on record and the remaining amount of Rs.50,000/- is to be paid at the time of quashing of FIR.

Petitioner has submitted that in view of the same, she does not wish to pursue the present petition against the respondents and prayed that she may be allowed to withdraw the present case.

Separate statement of the petitioner has been recorded in this regard and she has been duly identified by her counsel.

In view of the aforesaid, the present petition is disposed of as withdrawn as settled.

Application stands disposed of accordingly.

Date already fixed i.e. 24.03.2021 stands cancelled accordingly.

File be consigned to Record Room after due compliance.

*(Aakanksha)
MM (Mahila Court-05), West,
THC, Delhi/25.01.2021”*

5. The statement of the respondent No/2/complainant recorded during the DV proceedings on 25.01.2021, before the learned MM (West), Tis Hazari Court, Delhi, reads as under:

“Statement of Ms. Nazrana Praveen W/o Mohd. Gayasuddin D/o Sh. Abdul Halim Rio House No.148, Gali No.7, Sainik Vihar, Near Aulia Masjid, Mohan Garden, Uttam Nagar, New Delhi, Aged about 25 years.

On S.A.

I am petitioner in the present case. I have settled the dispute pertaining to present case with the respondents, out of the Court, out of my own free will and wish and without any pressure, coercion and fear with the intervention of respectable family members as mentioned in the joint compromise application filed on 22.01.2021 which is listed for today.

*The matter has been settled between us that respondent no.1 will make payment of Rs.1.5 Lakh in total to me. Out of which, today respondent no.1 has handed over me one Demand Draft for a sum of Rs.1 Lakh dated 20.01.2021 of Punjab National Bank, Patparganj, Delhi (the copy of which is **Ex.P-1 (OSR)**) and the remaining amount of Rs.50,000/- is to be paid at the time of quashing of FIR. Copy of my Aadhar Card is already **Ex.CW -1/6**.*

In view of the same, I do not want to pursue the present petition against the respondents. Kindly, the present petition be disposed of as withdrawn as settled. I am making this statement voluntarily without any fear, force, pressure or coercion.”

6. Learned counsel for the petitioners submits that the Affidavit of Talaq has also been filed by the respondent No.2/complainant along with the present petition. Learned counsel submits that since the parties have amicably resolved all their disputes and talaq has already been granted thus no useful purpose would be served in continuing with the present proceedings.

7. Both parties are present in person and have been duly identified by the IO. Respondent no. 2 states that the petitioner No. 1 and her got married on

23.01.2014. No child was born out of the wedlock. She states that she has entered into the settlement voluntarily without any fear, force or coercion. She states that out of the settled amount of Rs.1.5 lakhs, a sum of Rs.1 lakh has already been paid to her. The remaining amount of Rs. 50,000/- has been paid to her today in the form of a Demand Draft bearing DD No. 331239 dated 10.03.2023 drawn on Punjab National Bank in favour of Nazrana Khatoon. She states that talaq has already been granted. She states that she has no grievance against the petitioner and has no objection if the present FIR and all consequent proceedings emanating therefrom are quashed. An affidavit to this effect has also been filed by the respondent No.2/complainant. She states that she is making the statement voluntarily against all claims (past, present and future) without any fear, force, undue influence or coercion.

8. I have considered the submissions.

9. The dispute between the parties has been settled and continuance of FIR No. 812/2017 would serve no useful purpose and may cause prejudice to the petitioners and be an exercise in futility. The chances of conviction would also be bleak and remote, 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 talaq. This court considers that it is better to put a quietus to matrimonial disputes in view of the settlement arrived at between the parties voluntarily. 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.

10. 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 useful purpose will be served in continuing with the trial.

11. In view of the above, FIR No. 812/2017 dated 21.11.2017 under Sections 498/406/34 IPC registered at PS Ranhola and all other proceedings emanating therefrom are quashed.

12. The present petition along with the pending application stands disposed of.

DINESH KUMAR SHARMA, J

MARCH 14, 2023

st