



\$~48

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

+ CRL.M.C. 5631/2022

MUKUL SHARMA ANR.

..... Petitioners

Through: Mr. Sanju Gupta, Ms. Arti, Ms.
Varsha, Mr. Lalit Kumar Sharma and
Mr. Lakshay Tyagi, Advts.

versus

STATE (GOVT OF NCT, DELHI) ANR.

..... Respondents

Through: Mr. Amit Sahni, APP for the State.
Ms. Poonam Rajesh, Adv.
with R-2 in person.
WSI Subhi Aggarwal, PS Paschim
Vihar, East.

%

Date of Decision: 02.08.2023

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 under section 482 CrPC seeking quashing of case FIR No. 119/2015 dated 13.02.2015 registered under Sections 498A/406/34 IPC at PS Paschim Vihar. The said FIR was lodged on the complaint of respondent No.2/wife against the petitioners.

CRL.M.C. 5631/2022

Page 1 of 8



2. Facts in brief are that the marriage between the petitioner No.1/husband and Respondent No.2/complainant - wife was solemnized on 19.01.2008 as per Hindu Rites and Customs. One child namely Malank Sharma was born out of the wedlock. Thereafter owing to temperamental differences, both the parties started residing separately since 01.12.2013.
3. Consequently, the respondent No. 2 got registered the present FIR against the petitioners. Chargesheet is stated to have been filed and the matter is pending trial before the Ld. MM, THC, Delhi in CrI. Case No. 14/2017. In addition to the present FIR, respondent No. 2 also filed a maintenance petition u/s 125 CrPC bearing Mt. Case No. 743/2018 which is pending adjudication before the Ld. PJFC, THC, Delhi.
4. Ld. counsel submits that while the above said maintenance petition was pending, the parties were referred to the Counselling Cell, Family Courts, THC, Delhi, whereby, with the intervention of family and friends, the parties amicably settled all their disputes vide settlement agreement dated 26.02.2022 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. Thirty-Four Lacs and Articles (list enclosed) as full and final settlement (against istridhan and dowry, maintenance towards past, present and future



qua this marriage in three instalments by way of DD/Pay Order.

3. *It is further agreed between the parties that the husband will pay Rs. Eight Lacs only and articles (list enclose) to the wife at the time of recording of the statement of first motion by the way of DD/Pa Order. This amount is for the welfare of the child.*

4. *It is further agreed between the parties that the husband will pay Rs. Twelve lacs only to the wife at the time recording of the statement of second motion by way of DD/Pay Order. FDR in the name of minor child and nominee will be the mother. She can use interest for the welfare of the child. FDR is for the period till the child attains the age of majority.*

5. *It is agreed between the parties that the first motion petition shall be filed on or 28th MAR 2022 and second petition be filed soon after the completion of the period of the statutory period of the order u/s 13B (1) of HMA.*

6. *It is further agreed between the parties that the respondent shall pay Rs. Fourteen Lacs to the petitioners at the time of recording of statement in quashing of FIR No.119/15 under section 498(A), 406, 34 P.S. Paschim Vihar in Hon'ble High Court of Delhi within Two Months after second motion and petitioner shall cooperate and sign all the necessary affidavit and do the needful in quashing of the FIR. If petitioner refused after dispatch of articles she will bear the transport expenses of both side.*

7. *There is/are one child namely Malank, 13 yrs. From this wedlock who is/are living with the petitioner. It is agreed between parties that custody will be with petitioner. The respondent will have visitation right on every Fourth Sunday*



of the month and time and place as convenient to both the parties.

8. *It is further agreed between the parties that the petitioner/respondent will withdraw the case which is pending in the court of Ms. Renu Bhatnagar, Ld. Principle Judge, Family Court (West), Tis Hazari, Delhi case- 125 Cr.P.C.*

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. Respondent shall cooperate in the child's school formalities.*

11. *All the matter 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 further and will not file any case/complaint 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 petitioner back out of the amount taken at the time of first motion shall be return to respondent with 2% pm interest and if respondent, backs out of the amount given at the time of first motion shall stands forfeited by the petitioners. This term & condition of default shall be follow at the time FIR quashing also.*

13. *Both the parties are ready to withdraw all the cases or complaints pending in any of the court or P.S. Other case- FIR quashing, 498A, 406, 34.*

14. *That the parties have agreed on each and every terms as recorded in the statement agreement, 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 fine/penalty as mentioned above.

15. That the terms and conditions mentioned in the statement 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 of law and fact) in any form whatsoever and the parties agreed that this settlement agreement has been correctly recorded the said agreed terms and conditions.”

5. Learned counsel submits that in terms of the aforesaid settlement on 26.02.2022, the parties moved the concerned court seeking divorce by way of mutual consent which was granted vide judgement dated 23.09.2022 by the Ld. Principal Judge, Family Courts, Central District, Tis Hazari Courts, Delhi.
6. The parties are present in person and have been duly identified by the IO. Respondent No. 2/complainant states that she was married to the petitioner No. 1 on 19.01.2008. One child namely Malank was born out of the wedlock, who is presently in her care and custody. She states that the marriage between her and petitioner No.1 was dissolved vide decree of divorce dated 23.09.2022. She states that as per the settlement agreement the petitioner No.1 had to pay her Rs.



34,00,000/- towards the full and final settlement of all her claims (past, present and future). She states that out of the total settled amount she has already received Rs. 20 lakhs and the remaining amount of Rs.14 lakhs has been handed over to her today in court by way of three demand drafts bearing DD No. 047326 dated 19.05.2023 in the sum of Rs. 3 lakhs and DD No. 34204 dated 18.05.2023 in the sum of Rs. 6 lakhs, both drawn on HDFC Bank and DD No. 518635 dated 13.02.2023 drawn on Bank of India in the sum of Rs.5 lakhs, all in the name of Pooja. She states that she has thus 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 separately made a joint statement to this effect stating that their settlement shall not affect the rights, titles, or interests of the child namely Malank Sharma (aged 14 yrs), in any



manner, who will be open to pursue his legal rights and remedies as per law.

7. 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.



8. 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. 119/2015 dated 13.02.2015 registered under Sections 498A/406/34 IPC at PS Paschim Vihar and all the other subsequent proceedings arising therefrom are quashed.
9. It is pertinent to mention that the child born out of the wedlock namely Malank 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.
10. Accordingly, the present petition stands disposed of.

DINESH KUMAR SHARMA, J

AUGUST 2, 2023

rb