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

+ **CRL.M.C. 6891/2022**

MOHIT KUMAR GAUR & ORS.

..... Petitioner

Through: Mr. Hemant Kumar, Advocate with
petitioners in person.

versus

STATE (GOVT OF NCT OF DELHI) & ANR. Respondents

Through: Mr. Hemant Mehla, APP for the State
with Mr. Dipanshu Meena, Advocate
and SI Ankur Kardam, PS Punjabi
Bagh.

Mr. Avtar Singh with Mr. Puneet Jha,
Advocates for respondent No.2.

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Date of Decision: 27th March, 2023

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

CRL.M.A.26715/2022 (exemption)

Exemption allowed subject to all just exceptions.

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1. Present petition has been filed seeking quashing of FIR No.0358/2019 under Sections 498A/406/34 IPC registered at Police Station Punjabi Bagh, lodged on the complaint of respondent No.2/Ms. Shalu Bensla.

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2. Learned counsel for the petitioners submits that the parties have been living separately since 06.03.2019. Divorce has already been granted by decree of divorce dated 06.08.2022.

3. Settlement deed dated 06.08.2022 has been executed between the parties, which reads as under: -

- “1. That the parties have mutually decided to dissolve their marriage by mutual consent by filing petition under section 13B (I) and 13B (II) of Hindu Marriage Act for a decree of divorce with mutual consent, before the Family Court, Tis Hazari Courts, Delhi.*
- 2. That it has been further mutually agreed between both the parties that the First party shall pay Rs. 2,00,000/- (Rupees two lakhs) as full final settlement amount for all claims of the Second party pertaining to past, present, future maintenance, permanent alimony and istridhan articles etc. and the said amount would be paid in the following manner:*
 - a) Rs. 25,000/- at the time of signing of this MOU and signing of first motion petition.*
 - b) Rs 50,000/- at the time of recording of statement of the second party in the first motion.*
 - c) Rs. 50, 000/- at the time of recording of statement of the Second Party in the second motion.*
 - d) Rs. 75,000/- at the time of quashing of the FIR No. 358/2019 u/s 498A/406/34 IPC P.S. Punjabi Bagh, New Delhi before the Hon'ble Delhi High Court.*
- 3. That it has been further mutually agreed between both the parties that Second Party i.e wife will cooperate the first party in quashing proceeding and second party/ wife also agreed/undertaken to give statement before the Hon'ble High Court for quashing of the FIR No.358/2019 u/s 498*



A/406/ 34 IPC P.S. Punjabi Bagh, New Delhi registered against first party/husband or against first party family members, and shall extend all her cooperation for quashing of the said FIR.

- 4. That parties undertake that they shall file a petition under Section 482Cr.P.C.(quashing of F.I.R) before the Hon'ble High Court of Delhi for quashing of the aforesaid FIR within 15 days from the date of disposal of petition U/s 13-B(II)of HMA And Second Party /wife shall given an Affidavit of No Objection for quashing of the aforesaid FIR.*
- 5. That in view of the present settlement the Second party undertakes that all her claims, maintenance, Istridhan and alimony, past, present and future stands settled in all respect and in all manner. And Second Party undertakes that she will not claim her right in moveable or immoveable properties of the First Party or his parents and further Second Party undertakes that she will not defame/ misuse or use these proceedings in future in manner against the first party.*
- 6. That it is agreed that both the parties shall not lodge any complaint or file any civil or criminal case against each other regarding the above said subject and if any complaint lodged by either of the parties before the police or Court shall be treated null and void and such party undertakes to withdraw the same immediately after the passing of the decree of divorce.*
- 7. That Second party / wife has mutually agreed to withdraw her cases i.e the above mentioned complaint case U/s 12 of the DV Act, 2005 mc/236/2019 case title shalu bensla vs mohit kumar gaur @ mintu & ors pending in the hon'ble court of Ms. Neetu Nagar , West District, Tishazari Court, which is filed by the Second party/ wife on First party/ husband or on Family members of First party and further second party / wife withdraw the present case after filling*



- the first motion divorce petition in family court and also share/inform the first party the withdraw order.*
8. *That Second party has agreed to withdraw the above mentioned petition under section 125 Crpc Mt case / 241/2019 case title shalu bensla vs mohit kumar pending in the hon'ble court of Ms. Renu Bhatnagar , Principal judge Family court , west District, Tishazari court which is filed by the Second party/ wife on first party / husband and second party / wife withdraw the case wife withdraw the present case after filing the first motion divorce petition in family court and also share/inform the first party the withdraw order.*
 9. *That the first motion mutual consent divorce petition shall be filed within 10 days of the signing of this MOU by both the parties.*
 10. *That the parties are not under any threat, pressure, coercion, duress, influence, force and/or collusion in any manner whatsoever and have executed this Memorandum of Understanding of their own free will, consent and accord in a legal and lawful manner.*
 11. *That both the parties have further undertaken to be bound by the terms and conditions of this Memorandum of Understanding in every respect and have further agreed that in case any of the party shall fail to adhere to the terms of this MOU the other party shall have a right to take an appropriate legal action to enforce the terms and conditions of this agreement provided under the law at the risk and costs of the defaulting party and if shall amount to contempt of court. Further if either of the parties commit breach or default of this mutually settlement after the first motion if second party i.e wife backs out the amount taken at the time of signing of MOU/ signing of first motion petition and also include first motion amount taken by wife/second party shall be returned to the first party i.e husband with 2 % interest per month and if first party i.e husband backs out the*



amount given at the time of first motion shall stands forfeited by the second party i.e. wife. And also first party free to take initiate criminal proceeding against the second party/wife or claim damages from second party/wife due to back out.

12. That the present MOU shall be filed along with the mutual consent divorce petition.

13. That both the parties to the present MOU expressly undertake to abide by their respective parts of the agreement and co-operate to fulfill this MOU in its true spirit.”

4. The decree of divorce has been granted vide order dated 06.08.2022.

5. The Investigating Officer has duly identified the parties. A demand draft in the sum of Rs.75,000/- bearing No.244420 dated 24.03.2023 drawn on Indian Overseas Bank in favour of the complainant Ms. Shalu Bensla has been handed over to the Respondent No.2.

6. The High Court is the highest court of the State and is conferred with the power of control and superintendence over all courts subordinate to it. Besides Articles 226 and 227, Section 482 CrPC also acknowledges the inherent power of the high court to secure the ends of justice. In cases where the offences are not compoundable in nature, the parties on account of an amicable settlement invoke the inherent power under Section 482 Cr.P.C. for quashing the proceedings on the plea that continuance thereof would merely be an abuse of process of law.

7. It has repeatedly been held by the Apex Court that in the matrimonial disputes, if the parties have settled the matter between themselves amicably, it is the duty of Courts to encourage the same. Reliance can be placed on



B.S. Joshi v. State of Haryana, (2003) 4 SCC 675; *Yashpal Chaudhrani and Others vs. State (Govt. of NCT Delhi) and Another*; 2019 SCC OnLine Del 8179 .

8. I consider that there would be no purpose of continuing with the trial as the parties have entered into the settlement voluntarily without any fear, force and coercion, and have decided to give quietus to the proceedings. It was a matrimonial dispute which has been amicably settled.

9. In view of the above, of FIR No.0358/2019 under Sections 498A/406/34 IPC registered at Police Station Punjabi Bagh, and all the other proceedings emanating therefrom are quashed.

10. The present petition stands disposed of.

DINESH KUMAR SHARMA, J

MARCH 27, 2023
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