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

+ **CRL.M.C. 6936/2022, CRL.M.A. 26852/2022**

PANKAJ KAPOOR AND ORS.

..... Petitioners

Through: Mr. Chirag Alagh, Adv. with
petitioners.

versus

THE STATE AND ANR.

..... Respondents

Through: Mr. Hemant Mehla, APP and SI
Ashish Malik, PS South Rohini.
Mr. Chirag Alagh, Adv. with R-2.

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Date of Decision: 17.08.2023.

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 Cr.P.C. seeking quashing of case FIR No. 198/2016 dated 19.04.2016 registered under Sections 498A/406/34 IPC at PS South Rohini, Delhi, and all the consequential proceedings emanating therefrom. The said FIR was lodged on the statement of the respondent No. 2/wife.
2. Briefly the facts are that the marriage between the petitioner No.1/husband and respondent No.2/wife was solemnized on 10.02.2004 as per Hindu Rites and Customs. One male child was born

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out of the wedlock namely Akshat Kapoor. Thereafter, owing to temperamental differences the parties started residing separately since 29.08.2015. Subsequently, respondent No. 2 lodged a complaint before the CAW Cell which culminated into the present FIR against the petitioners herein. Chargesheet is stated to have been filed and the matter is pending adjudication before the Ld. MM, Rohini Courts, Delhi.

3. It has been submitted that while the proceedings were underway, the parties were referred to the Mediation Centre, Rohini Courts, Delhi, whereby, the parties amicably and voluntarily settled all their disputes on 17.06.2017 on the following terms and conditions:

“1) It is mutually settled between the parties that parties shall get dissolved their marriage by a decree of divorce by mutual consent without leveling allegations and counter-allegations against each other in accordance with law before the Court of competent jurisdiction at Delhi.

2) The husband/respondent shall pay a total sum of Rs. 25,000/- (Rupees Twenty Five Thousand Only) to the complainant/wife in full and final settlement of all claims of the complainant including all her claims past, present and future arising out of the marriage with respondent no.1 which shall include permanent alimony, istridhan, dowry articles, maintenance, and all other miscellaneous expenses whatsoever. Complainant shall not claim any article or



anything from the respondent in future.

3) It is further settled between the parties that First Motion Petition u/s.13B (1) of Hindu Marriage Act shall be filed by the parties jointly on or before 15.07.2017 and no amount shall be paid at the time of recording statement in the First Motion Petition.

4) It is further settled between the parties that the total settlement amount of Rs. 25,000/- (Rupees Twenty Five Thousand Only) shall be paid by the respondent no.1/husband to the complainant/wife at the time of recording statements in Second Motion Petition u/s.13B(2) of Hindu Marriage Act which shall be filed by the parties jointly within fifteen days after expiry of statutory period of six months.

5) It is further settled between the parties that the permanent custody of the minor child Akshat Kapoor shall remain with his father/respondent no.1 and complainant/wife shall have no visitation right

6) Both the parties undertake not to interfere in the life of each other in future, in any manner whatsoever.

7) Complainant/wife shall withdraw the present as well as connected matter within one month of passing final decree



in the Second Motion Petition u/s 13B (2) of HMA Act.

8) It is settled that there shall remain no case/claim/dispute due between the parties after compliance of the terms of the present settlement and that none of the parties shall file any civil or criminal proceedings against each other or their family members in future and that if any other case/petition/complaint etc. between the parties is pending in any Court or Authority either against the parties or against their respective family members and whether it is in the knowledge of other party or not, the same shall be withdrawn/got disposed of by the respective party.”

4. Ld. Counsel submits that in terms of the above settlement the parties have already been granted divorce by mutual consent by the Ld. Judge, Family Court, Rohini Courts, Delhi, vide judgement dated 09.07.2018. Ld. Counsel submits that the entire settled amount of Rs. 25,000/- has been paid by the petitioner to the respondent No. 2 towards full and final settlement. It has been submitted that the present FIR stems from a matrimonial dispute which stands amicable settled and therefore no useful purpose would be served if the present complaint is kept pending.
5. The parties are present in person and have been duly identified by the IO. Respondent No. 2 states that she was married to the petitioner No.1 on 10.02.2004 and one male child namely Akshat Kapoor was



born out of the wedlock who is staying with the petitioner No. 1. She states that the parties have already been granted divorce by mutual consent vide judgement dated 09.07.2018. She states that she has voluntarily settled the matter with the petitioners vide Settlement Agreement dated 17.06.2017 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 has also been filed on behalf of her along with the present petition. She further states that in terms of the settlement the petitioner No.1 has already paid her the entire settled amount of Rs. 25,000/-.She states that she has thus received the entire settled amount and has no grievance remaining against the petitioners. Both the parties have stated that in terms of the settlement the child born out of the wedlock shall remain with the petitioner No. 1/father and the respondent No. 2/mother shall have no visitation rights. Both the parties have stated that they have not entered into any settlement regarding the rights and interest of the minor child namely Akshat Kapoor who shall be entitled to pursue the same in accordance with law.

6. I have considered the submissions. The parties have already been granted divorce vide judgement dated 09.07.2018 and have amicably and voluntarily settled all their disputes vide Settlement Agreement dated 17.06.2017. Respondent No. 2 has stated that she 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 the facts and circumstances of the case and in view of the submissions of the respondent no.2/complainant, the case FIR No. 198/2016 dated 19.04.2016 registered under sections 498A/406/34 IPC at PS South Rohini, Delhi, and all subsequent proceedings arising therefrom are quashed.
8. It is pertinent to mention that the child born out of the wedlock namely Akshat Kapoor 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, titles and



interests of the child to pursue his legal remedies as per law is left open.

9. Accordingly, the present petition along with pending application stands disposed of.

DINESH KUMAR SHARMA, J

AUGUST 17, 2023/AR