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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 207/2024

MOHD. ZUBAIR & ORS.

.....Petitioners

Through: Mr. A.S. Rajput, Advocate.

versus

GOVT OF NCT OF DELHI & ANR.

.....Respondents

Through: Ms. Shubhi Gupta, APP for the State.
SI Akash Kumar, P.S. Bhajanpura.
Mr. Virendra Singh, Advocate with
respondent No.2.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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08.07.2024

Crl. M.C. 207/2024

By way of the present petition filed under section 482 of the Code of Criminal Procedure 1973, the petitioners, who are the former husband, father-in-law and mother-in-law of the complainant/respondent No.2, seek quashing of case FIR No.698/2020 dated 17.12.2020 registered under sections 498-A/406/34 of the Indian Penal Code, 1860 and sections 3/4 of the Dowry Prohibition Act, 1961 at P.S.: Bhajanpura, Delhi.

2. The petition is premised on 'आपसीसमझौतानाम/तलाकनामा' dated 05.08.2023 ('Settlement-cum-Talaqnama') arrived at between petitioner No.1 and respondent No.2., in terms of which petitioner No.1 is stated to have given divorce by pronouncing *talaq* thrice to



respondent No.2 on three separate dates, each a month apart *i.e.*, on 20.03.2023, 20.04.2023, and 20.05.2023.

3. The petition is also supported by affidavits of both the petitioners, as also of respondent No. 2, alongwith proofs of their I.D.s.
4. The petitioners as well as respondent No.2 are present in court. Their credentials have been verified and they have also been identified by their respective counsel.
5. The court has queried Ms. Anam, respondent No.2, who confirms that a Settlement-cum-*Talaqnama* has been signed between petitioner No.1 and respondent No.2; and that in full-and-final settlement of all her claims including towards *mehr*, maintenance (present, past and future), *stridhan*, dowry articles, jewellery, permanent alimony, etc., she was to receive a sum of Rs.2,51,000/- from petitioner No. 1, which has been paid in compliance of the terms of the Settlement-cum-*Talaqnama*. Respondent No. 2 confirms that all aspects of the Settlement-cum-*Talaqnama* have now been performed. Respondent No. 2 has also confirmed that she does not challenge the *talaq* given to her by petitioner No. 1.
6. Considering the documentation in the matter however, one aspect of the case requires to be clarified.
7. In the Settlement-cum-*Talaqnama* signed between petitioner No.1 and respondent No.2, apart from recording their financial settlement and *talaq*, the parties had agreed in para 5 that custody of their minor daughter 'Adiba' shall remain with petitioner No.1/father. Subsequently however, it would appear the parties had a change of mind in this regard, and *vide* additional affidavits dated 16.01.2024



filed by both petitioner No.1 and respondent No.2, the parties have now agreed as follows :

(i) Petitioner No.1's affidavit dated 16.01.2024 -

*"5. That in the above facts and circumstances for quashing of FIR NO.698 dated 17.12.2020, P.S.-BHAJAN PURA, N/E Delhi, a petition has been filed by the petitioner no.1 and respondent no.2, where at it was **decided and mentioned that baby "ADIBA" will remain permanently in the custody of petitioner no.1. (father of baby "ADIBA")**.*

*"6. That now by mutual consent again it has been decided and agreed that **custody of afore said female child namely "ADIBA" will remain permanently to the custody of respondent no.2, (mother of baby "ADIBA")** and the deponent will have no interfere in the life and custody of both the mother and child."*

(ii) Respondent No.2's affidavit dated 16.01.2024 -

*"5. That in the above facts and circumstances for quashing of FIR NO.698 dated 17.12.2020, P.S.-BHAJAN PURA, N/E Delhi, a petition has been filed by the petitioner no.1 and respondent no.2, where at it was **decided and mentioned that baby "ADIBA" will remain permanently in the custody of petitioner no.1. (father of baby "ADIBA")**.*

*"6. That now by mutual consent again it has been decided and agreed that **custody of afore said female child namely "ADIBA" will remain permanently to the custody of respondent no.2, (mother of baby "ADIBA")** and petitioner no.1 or other family members of petitioner no.1, will have no interfere in the life and custody of both the mother and child."*

(emphasis in original)

8. In this behalf, the court has queried petitioner No. 1 and respondent No. 2 as to what their agreement is with regard to 'visitation' rights as



distinct from ‘custody’ of the minor child. Based on what the parties have said in court, it is clarified that while the custody of the minor child shall remain with respondent No.2, petitioner No.1 shall have visitation rights in respect of the child, which he may exercise from time-to-time, after seeking the convenience and concurrence of respondent No.2.

9. It is also clarified, that as recited in the Settlement-cum-*Talaqnama*, the divorce given by petitioner No.1 to respondent No.2 by pronouncing *talaq* on three separate occasions on 20.03.2023, 20.04.2023 and 20.05.2023, is not barred by the provisions of the Muslim Women (Protection of Rights on Marriage) Act, 2019.
10. Ms. Shubhi Gupta, learned APP confirms that the State has no objection to the subject FIR being quashed.
11. In the circumstances, in line with the law laid down by the Supreme Court in ***Gian Singh vs. State of Punjab & Anr.*** reported as (2012) 10 SCC 303 as also in ***Narinder Singh & Ors. vs. State of Punjab & Anr.*** reported as (2014) 6 SCC 466, this court sees no reason why the subject FIR and all proceedings emanating therefrom should not be quashed. This court is of the view that in light of the settlement between the contesting parties, continuing with the subject FIR and all subsequent proceedings would be an exercise in futility and would not be conducive to peace and harmony between the parties.
12. Accordingly, FIR No.698/2020 dated 17.12.2020 registered at P.S.: Bhajanpura, Delhi is quashed. All proceedings arising therefrom also stand closed.



13. Needless to add that the settlement between the parties leading to the closure of all criminal proceedings by way of the present order will in no way affect the rights of the minor child 'Adiba' vis-à-vis her father, as may be available under law, in any manner whatsoever.
14. Petition stands disposed-of.
15. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

JULY 8, 2024

V.Rawat