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

+ **CRL.M.C. 5080/2024**

ZIA UI HAQUE SAIFI AND OTHERS

.....Petitioners

Through: Counsel (appearance not given) with
petitioners in-person.

versus

THE STATE OF DELHI AND ANOTHER

.....Respondents

Through: Ms. Shubhi Gupta, APP for the State
with SI Narender Singh, P.S.:
Chandni Mahal.

Mr. Saleem Akhtar, Advocate for R2
with R2 in-person.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

08.07.2024

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By way of the present petition filed under section 482 of the Code of Criminal Procedure 1973, the petitioners, who are the former husband and in-laws of the complainant/respondent No.2, seek quashing of case FIR No. 307/2020 dated 26.09.2020 registered under sections 498-A/406/34 of the Indian Penal Code, 1860 at P.S.: Chandni Mahal, Delhi ('subject FIR').

2. The petition is premised on Settlement Deed dated 13.02.2024 arrived at through mediation before the Mediation Centre, Tis Hazari Courts, Delhi. In particular, the settlement deed records that petitioner No. 1 and respondent No. 2 have dissolved their marriage in accordance with Muslim law.
3. The petition is also supported by affidavits of 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 interacted with respondent No.2. Upon being queried, respondent No.2 confirms that her marriage with petitioner No. 1 has been dissolved in accordance with Muslim law; that she has resolved her disputes with the petitioners amicably by mediation under the aegis of the Mediation Centre, Tis Hazari Courts, Delhi; and that the terms contained in Settlement Deed dated 13.02.2024 have been signed by her voluntarily and of her her own free volition, along with the other parties, as also by the learned Mediator.
6. Under the terms of the settlement, respondent No.2 confirms that she has received a sum of Rs. 5.5 lacs on the dates mentioned therein; and that she has received a further sum of Rs. 02 lacs today by demand draft in court; and that thereby she has received the full settlement amount of Rs. 7.5 lacs.
7. However, upon perusal of the terms of settlement, it is noticed that clause 4 thereof provides that respondent No.2 shall be entitled to visitation rights in respect of her 09 year old child “ on every 4th Saturday of the month keeping in view welfare of the child”. Mr. Saleem Akhtar, learned counsel appearing for respondent No.2 submits, that in view of the orders passed by the concerned court, visitation is planned at the Children’s Room at the Karkardooma Court Complex, New Delhi.
8. Since the child is about 09 years of age, it would appear that for the next 09 years respondent No.2 (mother) is *only* entitled to meet her



child once a month and that too in the Karkardooma Court Complex. Finding this to be a peculiar condition, to say the least, the court has queried respondent No.2 and she has expressed, with some regret, that though she had agreed to this term of the settlement, she would prefer to meet her child in alternative locations, if that was possible.

9. The court has also queried petitioner No.1 (husband) in this regard, who submits that the child is attending boarding school in Dehradun, Uttarakhand and usually visits Delhi only once a month, on the last Saturday of the month and returns to school on Sunday. Petitioner No. 1 submits that it was in these circumstances that visitation rights were decided as mentioned in the settlement deed. He however submits that, in principle, he has no objection to respondent No. 2 being permitted to meet their child more often and in alternative locations.
10. In the circumstances, by consent of parties, the terms of visitation rights for respondent No.2 as contained in the settlement deed are modified to the effect that respondent No.2 shall have visitation rights in respect of her son Daniyal, on every fourth Saturday of the month, for at least half-a-day, for which purpose petitioner No.1 shall drop the child to respondent No.2's residence at about 10:00 a.m. on every fourth Saturday and shall pick-up the child at about 06:00 p.m. on the same day.
11. This arrangement has been put in place after discussing the matter with petitioner No.1 (husband/father) and respondent No.2 (wife/mother), and by their consent, since no better arrangement seems to be possible in the circumstances of the case, at least at this stage. This arrangement shall continue till the child attains majority, whereafter he shall be



entitled to decide for himself, the matter of his interaction with his parents. Parties are further granted liberty to seek modification of the visitation rights, if the occasion so arises.

12. Ms. Shubhi Gupta, learned APP confirms that the State has no objection to the subject FIR being quashed.
13. In the circumstances, in line with the law laid down by the Supreme Court in ***Gian Singh vs. State of Punjab & Anr.***¹, as also in ***Narinder Singh & Ors. vs. State of Punjab & Anr.***², 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, and especially to the welfare of their minor child.
14. Accordingly, subject to the above modification to the terms contained in Settlement Deed dated 13.02.2024, FIR No. 307/2020 dated 26.09.2020 registered under sections 498-A/406/34 of IPC at P.S.: Chandni Mahal is quashed. All proceedings arising therefrom also stand closed.
15. 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 *vis-à-vis* his parents, as may be available under law, in any manner whatsoever.

¹ (2012) 10 SCC 303

² (2014) 6 SCC 466



16. Petition stands disposed-of.
17. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

JULY 8, 2024
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