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

+ **CRL.M.C. 6321/2024**

MANISH KUMAR

.....Petitioner

Through: Ms. Niharika Ahluwalia and Ms.
Sonakshi Chaturvedi, Advocates.

versus

STATE NCT OF DELHI AND ANR

.....Respondents

Through: Mr. Utkarsh, APP for the State with
ASI Arvind Kumar, P.S.: Burari.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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14.08.2024

CRL.M.A. 24170/2024 (exemption)

Exemption granted, subject to just exceptions.

Let requisite compliances be made within 01 week.

The application stands disposed-of.

CRL.M.C. 6321/2024

By way of the present petition filed under section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023 ('BNSS'), the petitioner, who is the former husband of the complainant/respondent No. 2, seeks quashing of case FIR No. 0701 dated 23.12.2020 registered under sections 498-A/406/34 of the Indian Penal Code, 1860 ('IPC') at P.S.: Burari, Delhi ('subject FIR').

2. The petition is premised on Memorandum of Understanding/ Settlement Deed dated 23.03.2023 ('MoU') and Divorce Decree dated 07.11.2023, which is the culmination of petitions under sections



13B(1) and 13B(2) of the Hindu Marriage Act 1955, whereby the parties had sought dissolution of their marriage by mutual consent.

3. No appeal is stated to have been filed from the divorce decree.
4. The petition is also supported by affidavits of the petitioner, as also of respondent No. 2, alongwith proofs of their I.D.s.
5. The petitioner and respondent No. 2 are present in court. Their credentials have been verified and they have also been identified by the Investigating Officer ('I.O.') as well as by the counsel.
6. Ms. Niharika Ahluwalia, learned counsel appearing for the petitioner submits that though only the petitioner (husband) was named in the FIR, they have been informed by the I.O. that upon completion of investigation, the petitioner's mother (mother-in-law of respondent No.2) has also been charged in the case.
7. Ms. Ahluwalia submits, that in view of the settlement arrived at between the main contesting parties, namely the petitioner and respondent No.2, the proceedings may also be quashed insofar as the petitioner's mother is concerned, even though she is not a party to the present proceedings.
8. The court has queried respondent No. 2, who confirms that she has taken divorce by mutual consent; and that the MoU has been entered into between the parties; and that in full-and-final settlement of all her claims including towards maintenance (past, present and future), *stridhan*, dowry articles, jewellery, permanent alimony, etc., she was to receive a sum of Rs. 6,50,000/- from the petitioner; out of which Rs. 4,00,000/- was received earlier and Rs. 2,50,000/- has been paid in court today, in compliance of the terms of the MoU. Respondent



No. 2 confirms that all aspects of the settlement have now been performed.

9. On a pointed question, respondent No. 2 also submits that she has no grievance left against the petitioner's mother, namely her mother-in-law, and that all proceedings arising from the FIR against the mother-in-law may also be closed.
10. Mr. Utkarsh, learned APP confirms that the State has no objection to the subject FIR being quashed.
11. However, it is noticed that the petitioner and respondent No. 2 have a minor girl-child Garvi; but as per the terms of the MoU, the petitioner (father) is barred from having any visitation rights whatsoever in relation to his minor child, thereby also foreclosing any choice of the minor to meet and interact with her father.
12. This is not acceptable to the court; and accordingly, after discussing this issue with the parties and having persuaded them, it is clarified that the minor child Garvi shall be entitled to meet and interact with her father, if and when she so desires, as per convenience of the parties.
13. 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.

14. Accordingly, FIR No. 0701/2020 dated 23.12.2020 registered under sections 498-A/406/34 IPC at P.S.: Burari, Delhi is quashed *qua* the petitioner as well as the petitioner's mother, subject to the aforementioned clarification. 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 property rights of the minor child Garvi *vis-à-vis* her father, as may be available under law, in any manner whatsoever.
16. Petition stands disposed-of.
17. Pending applications, if any, also stand disposed-of

ANUP JAIRAM BHAMBHANI, J

AUGUST 14, 2024/ak