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

+ CRL.M.C. 8733/2024,

SHAMEEM GUPTA & ANR.

.....Petitioners

Through: Petitioners in person.

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Ms. Kiran Bairwa, APP for State and
SI Suresh Kumar, PS New Usmanpur.
Mr. Mohit Kumar S., Adv. with R-2.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

% **07.11.2024**

CRL.M.A. 33410/2024

1. Exemption is allowed subject to all just exceptions.
2. Application stands disposed of.

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3. The Present petition has been filed under section 528 BNSS for quashing of FIR No. 1012/2017 dated 03.10.2017 registered under Section 498A/406/376/34 IPC at PS New Usmanpur, Delhi and all the other proceedings emanating therefrom.
4. Learned Counsel for the petitioner submits that Respondent no.2/complainant married petitioner no.1 on 22.03.2007 in accordance with the Hindu Rites and Ceremonies and one male child namely Monish Gupta was born out of the said wedlock. However, on account of temperamental differences and mental incompatibility, the parties



started living separately and instituted multiple litigations against each other and their respective families including the present FIR.

5. Learned Counsel further submits that during the pendency of the proceedings, the parties have resolved their disputes amicably, and in furtherance thereof, a joint statement dated 11.04.2022 was recorded by the Ld. Judge, Family Court in HMA No. 628/2021 on the following terms and conditions:

“1. We got married on 22.02.2007 according to Hindu Rites and Ceremonies at Ambala City, Haryana. We have filed photocopies of our documents, including Aadhar Cards etc, along with the certified copies of the proceedings recorded in HMA No. 723/2019 titled as Shameem Gupta Vs. K dated 19.09.2019.

2. Our advocated have filed their undertaking and affidavits regarding the physical verification of our documents. Undertaking of Ms. Meenakshi, Advocate, Enrl. No. D/1165/2018, in this regard, is Ex. P1, which Bears here signature at point A. Her affidavit in this regard is Ex. P2, which bears his signature at point A & B. Undertaking of Sh. Istivan, Advocate, Enrl No. D/2919/2014, in this regard is Ex. P3, which bears his signature point A.

His affidavit in this regard is Ex. P4, Which bears his signatures at point A & B.

3. Our marriage photograph is Ex. P5. Our marriage was duly consummated, and male child, namely, XXXXXXXX was born from the said wedlock, on 30.11.2010.

4. The first motion u/s 13 B(1) of Hindu Marriage Act was filed by the petitioners vide petition bearing HMA No. 732/2019 and was allowed vide order dated 19.09.2019. certified copy of the joint statement of the parties recorded in first motion petition is Ex. P6 and certified copy of the judgement passed in first motion



petition is Ex. P7.

5. We have been living separately since 23.06.2016 and have not resumed cohabitation thereafter. There is no possibility of our living together as husband and wife, on account of temperamental differences. Efforts for reconciliation and resolution of differences. Efforts for reconciliation and resolution of differences were made by us, our family members and well wishers but the same have failed.

6. We have amicably resolved all our disputes pertaining to this marriage including istridhan, dowry articles and maintenance (past, present & future) against each other and the family members and relatives of each other.

7. We both undertake to abide by the terms and conditions as mentioned in the petition Ex.P8. Our affidavits Ex.P9 & Ex.P10 are annexed with the petition. No claim/dispute of any kind is left between us. Both the petitioners have already withdrawn the respective cases pending before different courts and no other case is pending as on date.

8. We both state that the consent to this petition has not been obtained by fraud, pressure or undue influence and we have given the consent to this petition voluntarily. The present petition has not been filed by us in collusion with each other.

9. For identification, I, petitioner no.1, have placed on record copy of my Aadhar Card in respect of my identity and residence proof which is Ex.P11. I, petitioner no.2 have placed on record the copy of my Aadhar Card in respect of my identity and residence proof which is Ex.P12.

10. Present petition has been signed and verified by both of us and same is supported by our affidavits. Contents of the petition are correct. We pray that our petition may be allowed and accepted. Our marriage be dissolved by decree of divorce.”



6. Pursuant to the settlement, it is submitted by both parties that the marriage between them has already been dissolved on 14.10.2022 as per law.
7. Furthermore, the Learned Counsel for the petitioners submits that since the parties have resolved all their differences amicably, therefore, it would be in the interest of justice to quash FIR No. 1012/2017 dated 03.10.2017 registered under Section 498A/406/376/34 IPC at PS New Usmanpur, Delhi and all the other proceedings emanating therefrom.
8. As per the settlement, a demand draft bearing DD No. 478132 dated 22.10.2024 in the name of Kanik of Rs. 50,000/- drawn from Punjab National Bank has been handed over to respondent No.2. Respondent No. 2 states that she has received the entire settlement amount.
9. It is settled that the inherent powers under section 482 of the Code are required to be exercised to secure the ends of justice or to prevent abuse of the process of any court. Further, the High Court can quash non- compoundable offences after considering the nature of the offence and the amicable settlement between the concerned parties. Supreme Court and this Court have repeatedly held that the cases arising out of matrimonial differences should be put to a quietus if the parties have reached an amicable settlement. Reliance may be placed upon: ***B.S. Joshi v. State of Haryana***, (2003) 4 SCC 675; ***K. Srinivas Rao v. D.A.Deepa***, (2013) 5SCC 226; ***Yashpal Chaudhrani and Others vs. State (Govt. of NCT Delhi) and Another***, 2019 SCC OnLine Del 8179.
10. Both parties are present in court and have duly been identified by the IO. Respondent No. 2 submits that she has entered the settlement voluntarily without any fear, force, or coercion. She submits that other



petitions have already been withdrawn or dismissed. And since the marriage between the parties has also been dissolved as per Hindu Rites, she has no objection if FIR No. 1012/2017 dated 03.10.2017 registered under Section 498A/406/376/34 IPC at PS New Usmanpur, Delhi and all the other proceedings emanating therefrom are quashed.

11. Taking into account the totality of facts and circumstances of the case, this court considers that the parties have entered into an amicable settlement out of their own free will, without any fear, force or coercion and they should be given an opportunity to lead their lives peacefully. No purpose will be served in continuing with the trial.
12. In view of the above, FIR No. 1012/2017 dated 03.10.2017 registered under Section 498A/406/376/34 IPC at PS New Usmanpur, Delhi and all the other proceedings emanating therefrom are quashed. However, this shall not bind the legal rights, title, and interest of the child namely Monish Gupta, in any manner. Child namely child namely Monish Gupta shall be at liberty to pursue his legal rights in accordance with law.
13. The present petition along with all the pending applications stand disposed of.

DINESH KUMAR SHARMA, J

NOVEMBER 7, 2024/AR/KR..