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

\+ CRL.M.C. 10002/2024 & Crl.M.A.38345/2024

MOHAMMAD ARSHAD & ORS. .....Petitioners

Through: Mr. Ashish Tripathi with Mr. Vijay Goel, Mr. Pankaj Chadha & Shiv Kumar Thakur, Advocates

versus

STATE OF NCT OF DELHI & ANR. .....Respondents

Through: Mr. Raghuinder Verma, APP for State along with SI Sanjay, PS Bhajanpura.

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

O R D E R

% **19.12.2024**

1. The instant petition under Section 482 of the Code of Criminal Procedure, 1973 ("Cr.P.C." hereinafter), now under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter "BNSS") has been filed by the petitioners praying for quashing of FIR bearing No.385/2022 registered at Police Station- Bhajanpura, Delhi, for the offences punishable under Sections 498A/406/34 of the Indian Penal Code, 1860 (hereinafter "IPC").

2. Issue notice.

3. Notice is accepted by learned APP for the State on behalf of respondent No.1 as well as by respondent no.2 present in the Court.

4. The brief facts of the case are that the marriage between the petitioner No.1 and respondent No.2 got solemnized on 30th September, 2015, according to Muslim rites and customs but due to some temperamental differences between them, they started living separately since 20th October,

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2018. One female child was born out of their wedlock, who has been in exclusive custody, care and control of the petitioner No.1/husband.

5. Learned Counsel for the petitioner submitted that with the intervention of family members and relatives, both the parties entered into settlement *vide* Talaq-E-Mubart/Mutual Consent Divorce on 5th July, 2024. The terms and conditions of the said settlement are mentioned in the settlement deed which is annexed as Annexure B to the petition.

6. It is submitted that in pursuance of the said settlement, the parties have already obtained divorce by mutual consent *vide* Divorce Letter dated 5th July, 2024.

7. It is submitted that respondent No.2 has settled all her claims in respect of her Mahar/iddah and claims of past, present and future maintenance, with the petitioner No.1 for a sum of Rs. 1,10,000/- (Rupees One Lakh Ten Thousands).

8. It is prayed that the instant FIR be quashed on the basis of settlement between the parties.

9. Learned APP for the State submitted that there is no opposition to the prayer made on behalf of the petitioners seeking quashing of the FIR in question in view of the settlement arrived at between the parties.

10. Heard learned counsel for the parties and perused the record.

11. The instant criminal proceedings in respect of non-compoundable offences are private in nature and do not have a serious impact on the society especially when there is a settlement/compromise between victim and accused. In such cases, it is settled law that High Court is also required to consider the conduct and antecedents of the accused in order to ascertain that the settlement has been entered into by her own free will and has not

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been imposed upon her by the petitioner or any person related to him.

12. In the case of ***State of Madhya Pradesh vs. Laxmi Narayan and Ors.,*** (2019) 5 SCC 688, the Hon'ble Supreme Court held that the powers conferred under Section 482 of the Cr.P.C, can be exercised by the Courts to quash the criminal proceedings featuring non-compoundable offences, when the matter arises out of matrimonial or family disputes. Moreover, it is pertinent to satisfy the Court that the said non-compoundable offences are private in nature and does not have a serious impact on the society.

13. Furthermore, it was observed by the Hon'ble Supreme Court in the case of ***Ramgopal and Ors. Vs. The State of Madhya Pradesh,*** 2021 INSC 568, that the extraordinary power enjoined upon the High Courts under Section 482 of Cr.P.C. can be invoked even when such a case falls within the ambit of non-compoundable offences given that the Court must be satisfied that the nature of the offence does not impact the conscience of the society and that the compromise between the parties is voluntary and amicable.

14. The petitioners are present before this Court and have been identified by their counsel Mr. Ashish Tripathi and Investigating Officer ("IO" hereinafter) SI Gurish Baalyan, Police Station - Pahar Ganj, New Delhi. The respondent No.2 is also present before this Court and has been identified by her counsel and the IO.

15. On the query made by this Court, respondent no.2 has categorically stated that she has entered into compromise at her own free will and without any pressure. It is also stated by respondent no.2 that the entire dispute has been amicably settled between the parties. Respondent no.2 also stated that she has received the entire settlement amount and nothing is due now from

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the petitioners.

16. In the instant case, as stated above, the parties have reached on the compromise and amicably settled the entire disputes without any pressure. There is also no allegation from respondent no.2 that the conduct and antecedents of petitioners have been improper towards her after the compromise. As per the settlement, the respondent no.2 has received the entire settled amount.

17. In view of the settlement arrived at between the parties and the law laid down by the Hon'ble Supreme Court, the present petition is allowed. Accordingly, FIR bearing No.385/2022 registered at Police Station-Bhajanpura, Delhi, for the offences punishable under Sections 498A/406/34 of the IPC and all consequential proceedings emanating therefrom are quashed.

18. The petition alongwith pending applications, if any, stand disposed of.

CHANDRA DHARI SINGH, J

DECEMBER 19, 2024
Rt/st

Click here to check corrigendum, if any

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