

(2023) 05 DEL CK 0488

In the Delhi High Court

Case No : Criminal Miscellaneous Case No. 541 Of 2022

Rajesh Kumar Sharma & Ors.

APPELLANT

Vs

State (N.C.T. Of Delhi) & Anr

RESPONDENT

Date of Decision : 09-05-2023

Acts Referred:

Indian Penal Code, 1860 — Section 34, 406, 498A
Code Of Criminal Procedure, 1973 — Section 125, 482

Citation : (2023) 05 DEL CK 0488

Hon'ble Judges : Dinesh Kumar Sharma, J

Bench : Single Bench

Advocate : Subodh Kumar, Hemant Mehla

Final Decision : Disposed Of

Judgement

Dinesh Kumar Sharma, J

1. The present petition has been filed under Section 482 Cr. PC seeking quashing of case FIR No. 1224/18 dated 08.12.2018 registered under sections 489A/406/34 IPC at PS Aman Vihar. The said FIR was lodged on the complaint of respondent No.2/wife against the petitioners herein.

2. Facts in brief are that the marriage between petitioner No. 1/husband and respondent No. 2/complainant - wife was solemnized on 22.11.2009 as per Hindu rites and customs at Delhi. No child was born out of the wedlock. Thereafter owing to temperamental differences both the parties started residing separately since 28.05.2013. Consequently, respondent No. 2/complainant filed a complaint before CAW Cell, Pitampura, Delhi which culminated into the present case against the petitioners herein. Chargesheet is stated to have been filed and the matter is pending adjudication before the learned MM, Rohini Courts, Delhi.

3. While the proceedings were underway, the parties entered into a settlement on 22.03.2022 before the Delhi Mediation Centre, Rohini Districts, Courts, Delhi on the following terms and conditions:

"1) It is mutually settled between the parties that complainant and respondent/husband shall get dissolved their marriage by mutual consent without leveling allegations and counter allegations against each other in accordance with law before the Court of competent jurisdiction at Delhi.

2) It is settled that the respondent/husband shall pay a total sum of Rs.3,50,000/- (Rupees Three Lakhs and Fifty Thousand Only) to the complainant as full and final settlement qua all her claims (past, present and future) arising out of the marriage with respondent/husband which shall include permanent alimony, Istridhan, dowry articles, maintenance all other miscellaneous expenses.

3) The settlement amount of Rs.3,50,000/- (Rupees Three Lakhs and Fifty Thousand Only) shall be paid by way of cash/DD/RTGS/NEFT or any other electronic mode by the respondent/husband to the complainant, as follows:-

i) A sum of Rs.1,00,000/- (Rupees One Lakh only) at the time of recording of statement in First Motion Petition U/s.13(B)(1) of Hindu Marriage Act which shall be filed by the parties jointly on or before 30.03.2022.

ii) A sum of Rs.1,50,000/- (Rupees One Lakh and Fifty Thousand only) shall be given at the time of recording of statement in second motion U/s. 13(B)(2; of Hindu Marriage Act which shall be filed by the parties jointly at the earliest possible after seeking permission from the court concerned or as per law.

iii) Balance amount of Rs.1,00,000/- (Rupees One Lakh Ony) at the time of recording of statement in quashing petition in the FIR No. 1224/18 PS Aman Vihar U/s 498A/406/506/34, which shall be filed by the respondent within two months after completion of Second Motion and the complainant shall co-operate in all respect in quashing of the same.

4) It is further settled between the parties that the present case shall be withdrawn by the complainant on date fixed as well as all other known or unknown connected matters.

5) Both the parties also undertake not to interfere in the life of each other in future.

6) After compliance of terms of this settlement, there shall remain no complaint/ case/claim/dispute due between the parties and that none of the parties shall file any civil or criminal proceedings against each other in future qua the same cause of action and that if any other case/petition/complaint etc. between the parties is pending in any Court or Authority either against the parties or against their respective family members. the same shall be withdrawn /got disposed of by the respective party."

4. Ld. Counsel submits that in terms of the above settlement, the parties no longer have any grievance remaining against each other. In terms of settlement, the parties have also been granted divorce by mutual consent vide judgement dated 05.08.2022 of the Ld. Principal Judge, Family Courts, Rohini Courts, Delhi.

It has been submitted that the petitioner has already paid Rs. 2,50,000/- to the respondent No.2/complainant and the remaining Rs. 1,00,000/- is to be paid today. Ld. Counsel submits that since parties have amicably settled, no useful purpose would be served in continuing with the present complaint.

5. The parties are present in person and have been duly identified by the IO. Respondent No.2/complainant states she has resolved all her disputes with the petitioners and has no grievance against the petitioners. She states that the parties have already been granted mutual divorce vide judgement dated 05.08.2022. She states that she no longer wishes to pursue the present complaint and has no objection if the same is quashed. Both the parties have stated that they have entered into the settlement voluntarily without any fear, force or coercion. She states that out of the total settled amount of Rs.3,50,000/- she has already received Rs. 2,50,000/- from the petitioners. She states that the remaining amount of Rs. 1,00,000/- has been received by her today by way of demand draft bearing DD No. 043122 dated 21.02.2023 drawn on Karnataka Bank Ltd in the name of Nutan.

6. I have considered the submissions. Divorce by mutual consent has already been granted to the parties. The complainant/ respondent No.2 does not wish to pursue the present FIR. The chances of conviction would be bleak and remote, given that the complainant does not wish to pursue the present complaint on account of the amicable settlement. In such circumstances continuance of the present FIR would serve no useful purpose and may cause prejudice to the petitioner and be an exercise in futility. I do not see any reason to reject the compromise. This court considers that it is better to put a quietus to the dispute in matrimonial matters where the wrong is basically private or personal in nature and the parties have amicably resolved their entire dispute. The Supreme Court and this Court have time and again held that cases arising out of matrimonial differences should be put to quietus if the parties have arrived upon a genuine settlement. Reliance can be placed on B.S. Joshi v. State of Haryana, (2003) 4 SCC 675; K. Srinivas Rao v. D.A. Deepa, (2013) 5 SCC 226; Yashpal Chaudhrani and Others vs. State (Govt. of NCT Delhi) and Another, 2019 SCC OnLine Del 8179.

7. Considering the totality of facts and circumstances of the case and in view of the submissions of respondent no.2/ complainant, the case FIR No. 1224/18 dated 08.12.2018 registered under sections 489A/406/34 IPC at PS Aman Vihar and all proceedings emanating therefrom are quashed.

8. Accordingly, the present petition stands disposed of.