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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.M.C. 3317/2011

SACHIN SHARMA & ORS

..... Petitioners

Through: Mr.Parmod K. Sharma, Advocate

versus

STATE & ORS

..... Respondents

Through: Mr.Sunil Sharma, APP
WASI Kusum, PS Bindapur.
Mr.Varun Goswami and Mr.Raj
Kumar, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE V.K. SHALI

ORDER

14.11.2011

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1. This is a petition filed by the petitioner u/s 482 Cr.P.C. for quashing of FIR No. 153/2006 u/s 498A/406/34 IPC registered at PS Bindapur, in respect of which charge-sheet has still not been filed.
2. The contention of the learned counsel for the petitioner is that the petitioner No.1/ Sachin Sharma has settled all his matrimonial disputes with the respondent No.2, Rinki Sharma vide a settlement arrived at in July, 2011. In terms of the said settlement it has been stated that parties would obtain divorce on the basis of mutual consent and first motion petition has already been allowed by the competent Court on 03.08.2011. Petitioner No.1 has further agreed to pay a total sum of ₹10 lac

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file and no page is missing.

to the respondent No.2/complainant towards the full and final settlement of her entire claim i.e. maintenance, permanent alimony etc. for self and for the minor child. In terms of the said settlement a sum of ₹3 lacs has been paid to the respondent No.2 at the time of grant of first motion while another installment of ₹3 lacs is paid to the respondent No.2 today in Court by way of draft No.180719 drawn on Canara Bank, thus making the total payment of ₹6 lacs. It is further stated that the balance amount of ₹4 lacs shall be paid to her at the time of grant of second motion. Both the parties have given an undertaking before the Registrar General of this Court stating that they will co-operate with each other in filing the second motion and in obtaining the decree of divorce on the basis of mutual consent. The said undertaking was found to be an order by the Registrar General and accordingly the same is accepted. It is made clear that any violation of the said undertaking will be deemed to be a violation of the undertaking given to the Court and an action of contempt will be taken in the event of any breach by any of the party.

3. All the petitioners are present and have filed their affidavit in support of the petition. They are also identified by their counsel. Respondent No.2 is also present, she is also identified by her

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counsel.

4. Learned APP does not have any objection to the quashing of FIR. However, the learned APP has raised an objection that the amount which is purported to have been received by the respondent No.2 in terms of the settlement, is also on account of the various claims of the minor female child, whose custody is with the respondent No.2. Since the baby Shringar Bhardwaj is a minor and on attaining the age of majority she would be competent to take a decision in respect of her own rights, therefore, till she ceases to be dependent on father, it is prayed that her right cannot be foreclosed by an agreement between the petitioner No.1 and the respondent No.2
5. I fully agree with the contention of the learned APP. There cannot be an estoppel against law inasmuch as the minor child after attaining the age of majority is free to claim the rights available to her in law, from her natural father. Accordingly, this point is clarified that the minor will be free to claim all her rights on attaining majority as are available to her in law so that no ambiguity is left in the order.
6. Learned counsel for the petitioners fairly concedes that he has no objection in case the same is clarified. As a matter of fact, on instructions he stated that the rights of the minor are fully

protected and after attaining the age of majority, she can claim her rights as may be available to her in law.

5. Having regard to the aforesaid facts that the parties have settled their matrimonial disputes and parties have also furnished an undertaking that they will go ahead with the filing of the second motion petition in order to dissolve the marriage by a decree of divorce, I feel that no useful purpose would be served by keeping the aforesaid FIR and consequent proceedings pending. Accordingly, FIR No. 153/2006 u/s 498A/406/34 IPC registered at PS Bindapur and the consequent proceedings pending before the learned MM are quashed.
6. With these directions, petition stands disposed of.
7. Parties to bear their own cost.



V.K. SHALI, J

NOVEMBER 14, 2011

mr
RP

*fresh GEMA 4084/12 for correction of
order dt. 14-11-11.*

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+ CRL.M.C. 3317/2011

SACHIN SHARAM & ORS. Petitioners
Through Counsel for the petitioners.

versus

STATE & ORS. Respondents
Through Mr.Sunil Sharma, APP
Mr.Rajesh Singh, Adv. for R-2

CORAM:
HON'BLE MR. JUSTICE V.K. SHALI

ORDER

% **30.03.2012**
Crl.M.A. 4084/2012

1. This is an application for correction in the order dated 14.11.2011.
2. It has been contended by the learned counsel for the petitioners that on account of an inadvertent mistake in the order dated 14.11.11, it has been recorded that FIR no.153/2006 has been quashed, while as the actual FIR number is 153/2011. It is accordingly, prayed that the correction in the said order dated 14.11.11 be made.
3. Issue notice.
4. Ms.Kaur, learned APP accepts notice on behalf of the State. She has no objection to the correction.
5. Order dated 14.11.11 is modified and FIR number shall read as

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FIR no.153/2011'.

6. The application is disposed of.

MARCH 30, 2012

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V.K. SHALI, J