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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.M.C. 2090/2012 & CRL.M.A. 7236/2012, 14412/2012

MANAS ACHARYA Petitioner

Through: Ms. Jyoti Gupta, Advocate with
Mr. Pradeep Kumar, Advocate.
Petitioner in person.

versus

STATE & ANR Respondents

Through: Ms. Jasbir Kaur, APP for State.
Mr. Santosh Kumar Suman, Advocate
for respondent No.2 with respondent
No.2 in person.

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Date of Decision: 29th August, 2012

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J : (Oral)

1. Present petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.127/2008 registered with Police Station Kotla Mubarakpur, New Delhi under Sections 498A IPC as well as any other consequential proceedings arising therefrom.

2. The relevant facts of the present case are that on 13th February, 2006, petitioner was married to respondent No.2. On 13th May, 2008, due to disputes and differences, respondent No.2 lodged the aforesaid FIR. Subsequently, respondent No.2 also filed a complaint under Section 12 of the Domestic Violence Act and a petition under Section 125 Cr.P.C.

3. On 18th April, 2011, both parties resolved all their disputes and differences by way an agreement before the Mediation Centre, Tis Hazari Courts, Delhi. The relevant portion of the aforesaid agreement is reproduced hereinbelow:-

“.....Now the parties have decided to dissolve their marriage by way of mutual consent on the following terms and conditions:

i) That parties have agreed to dissolve their marriage by mutual consent and further agreed to move appropriate petitions under section 13 B (1) and 13 B (2) of the Hindu Marriage Act.

ii) That in view of the settlement between the parties, the respondent/husband has agreed to pay a sum of Rs. 3,00,000/- (Rupees Three Lacs only) as total lump sum amount to the petitioner/wife towards istridhan, maintenance (present, past and future) dowry articles and permanent alimony etc.

iii) It is further agreed between the parties that the

respondent/husband will pay the first installment of Rs. 1,00,000/- by way of DD to the petitioner/wife at the time of recording of statement in a petition filed u/s. 13 B (1) of HMA. The petition for divorce with mutual consent will be filed mutually within seven days from today.

iv) It is further agreed between the parties that the respondent/husband will pay the second installment of Rs. 1,50,000/- by way of DD to the petitioner/wife at the time of recording of statement in the second motion petition for divorce by mutual consent u/s. 13 B (2) HMA as per law.

v) Thereafter the parties will move an application for quashing of the FIR bearing no. 127/2008 P.S. Kotla Mubarakpur, u/s. 498A/406/34 IPC before the Hon'ble High Court of Delhi and at the time of quashing the respondent/husband will pay the final installment of Rs. 50,000/- by way of DD to the petitioner/wife and the petitioner will cooperate in quashing of the FIR.

vi) After recording of statement in the first motion petition for divorce by mutual consent the petitioner has agreed to withdraw the present application u/s. 12 of DV Act and maintenance execution no. 105/4/10. Both are pending before the court of Ms. Priya Mahindra, Ld. MM, Saket Courts, Delhi.

vii) That after the total payment of Rs. 3,00,000/- all claims of complainant/wife will stand settled i.e. istridhan, maintenance (present, past and future). No claim left for permanent alimony, jewellery articles dowry articles etc.

viii) The parties have further agreed that they will not further litigate with each other or against their family members in respect of matrimonial dispute in any manner before any court of law as they undertake to abide by the terms of the present settlement and if any other case/complaint has been filed by both the parties against each other or their family members and relatives, it shall be deemed to have been withdrawn.

The above said settlement has been arrived at between the parties out of their own free will and without any force, pressure and coercion.....”

(emphasis supplied)

4. However, as respondent No.2 refused to cooperate with filing of the first motion petition, petitioner agreed to pay her an additional sum of ₹ 1,00,000/- over and above the agreed amount of ₹ 3,00,000/-.

5. In February, 2012, in pursuance to the aforesaid agreement, respondent No.2 withdrew her complaint under Section 12 of the Domestic Violence Act as well as all execution proceedings filed by her.

6. On 03rd April, 2012, the marriage between petitioner and respondent No.2 was also dissolved by a decree of divorce by mutual

consent. Thereafter, petitioner filed the present petition for quashing of the aforesaid FIR.

7. However, respondent No.2 has opposed the quashing of FIR on the ground that her entire jewellery/istridhan has not been returned.

8. In fact, respondent No.2 has filed an application being Crl.M.A. 14412/2012 seeking return of her entire jewellery/istridhan. The relevant portion of the application is reproduced hereinbelow:-

“3. That subsequently thereafter the matter was finally settled out of the court and the petitioner was agreed to pay a sum of Rs. 4,00,000/- and also agreed to return entire jewellery/stridhan of the respondent no.2 provided that the said condition of return of jewellery/stridhan shall not be disclosed by the respondent no.2 before the court or anywhere as he wanted to conceal the same from his parents because his father is a heart patient. It is submitted that the petitioner had already paid total settlement amount to the respondent no.2 and the respondent no.2 had also signed and facilitate the petitioner for quashing of the said FIR and made statement before this Hon’ble Court with regard to the settlement. However, despite the statement made by the respondent no.2 before this Hon’ble Court and the respondent no.2 had also did not disclose the factum of return of jewellery/sridhan before the court, the petitioner has failed to return the jewellery/stridhan to the respondent no.2 despite various requests and demands rather he refused to return the same.”

(emphasis supplied)

9. After hearing the parties at length, this Court is of the view that the stand taken by respondent No.2 in the present proceedings is contrary to facts and is neither fair nor just. The agreement executed before the Mediation Centre clearly stipulated that the settlement amount was a total lump sum amount towards istridhan, maintenance as well as dowry articles and permanent alimony.

10. Consequently, respondent No.2's averment that settlement agreement is silent with regard to return of jewellery/istridhan or that she wanted to conceal this fact from her father, is false.

11. The Supreme Court in ***Ruchi Agarwal Vs. Amit Kumar Agrawal & Ors., (2005) 3 SCC 299*** has held as under:-

“8. Learned counsel appearing for the appellant, however, contended that though the appellant had signed the compromise deed with the above-mentioned terms in it, the same was obtained by the respondent-husband and his family under threat and coercion and in fact she did not receive lump sum maintenance and her Stridhan properties, we find it extremely difficult to accept this argument in the background of the fact that pursuant to the compromise deed the respondent-husband has given her a consent divorce which she wanted thus had performed his part of the obligation under the compromise deed. Even the appellant partially performed her part of the obligations by withdrawing her criminal complaint filed under Section 125. It is true that she had made a complaint in writing to the Family Court where

Section 125 Cr.P.C. proceedings were pending that the compromise deed was filed under coercion but she withdrew the same and gave a statement before the said court affirming the terms of the compromise which statement was recorded by the Family Court and the proceedings were dropped and a divorce was obtained. Therefore, we are of the opinion that the appellant having received the relief she wanted without contest on the basis of the terms of the compromise, we cannot now accept the argument of the learned counsel for the appellant. In our opinion, the conduct of the appellant indicates that the criminal complaint from which this appeal arises was filed by the wife only to harass the respondents.

9. *In view of the above said subsequent events and the conduct of the appellant, it would be an abuse of the process of the court if the criminal proceedings from which this appeal arises is allowed to continue. Therefore, we are of the considered opinion to do complete justice, we should while dismissing this appeal also quash proceedings arising from the Criminal Case No.Cr.No.224/2003 registered in Police Station, Bilaspur, (Distt.Rampur) filed under Sections 498A, 323 and 506 IPC and under Sections 3 and 4 of the Dowry Prohibition Act against the respondents herein. It is ordered accordingly. The appeal is disposed of.*

12. This Court in ***Kirti Jain @ Shalu Jain & Anr. Vs. Sh. J.P.***

Jain, (2007) 1 JCC 53 has held as under:-

“12. From the date when the settlement took place between the parties till the divorce between the petitioner No. 1 and Pankaj Jain, there is a period of 9 to 10 months when various steps in furtherance thereof were being taken. The respondent played active role. He did not make his intentions clear that in so far as offending portion in the

complaint filed by the petitioner No. 1 is concerned, he would be reserving his rights and would be taking action. He kept quite during all this period. After the terms of settlement were given effect to resulting in decree of divorce dissolving the marriage between the petitioner No. 1 and Pankaj Jain, withdrawal of complaint by the petitioner No. 1 & withdrawal of suit by Pankaj Jain, the respondent shot the salvo in the form of filing this criminal complaint. It is clearly a motivated which is impermissible.

13. The respondent, who appeared in person, referred to the following judgments of Hon'ble Supreme Court to contend that High Court should not ordinarily interfere at an interlocutory stage of a criminal proceedings pending in the subordinate court, if from the facts alleged in the complaint, which are to be accepted at their face value at the stage, the ingredients of the offence alleged are made out:

- 1. P. Vijayapal Reddy and Others v. The State (Govt. of India)-AIR 1978 Supreme Court 1590.*
- 2. Mrs. Dhanalakshmi v. R. Prasanna Kumar and Others-AIR 1990 Supreme Court 494.*

There is no quarrel with the proposition of law explaining the powers of High Courts under Section 482 Cr.P.C. as described in the aforesaid two judgments. At the same time, it cannot be denied that if the High Court is of the opinion that the proceedings are misuse and abuse of the process of law, High Court has inherent power to quash the same. In State of Haryana v. Bhajan Lal-AIR 1992 SC 604, the Hon'ble Supreme Court discussed in detail the ambit and scope of High Courts' power under Section 482 of the Cr.P.C. and summarised the position by mentioning as many as seven principles and principle No. 7 is relevant for our purposes which would be applicable in the instant case. The present case is squarely covered by the aforesaid principles. I am also persuaded by the two recent judgments of the Hon'ble Supreme Court in the case of Ruchi Agarwal Vs. Amit Kumar Agrawal and Others –

(2005) 3 SCC 299 and Mohd. Shamim and Others Vs. Nahid Begum (Smt) and Another – (2005) 3 SCC 302 for taking this view. Consequently, summoning order dated 7th October, 2004 is quashed and the complaint filed by the respondent is dismissed. No cost.”

13. Keeping in view the aforesaid, this Court is of the view that the settlement agreement executed between the parties is a comprehensive legal, valid and binding document and respondent No.2 cannot be allowed to wriggle out of it.

14. Consequently, present petition is allowed and FIR No. 127/2008 registered with Police Station Kotla Mubarakpur, New Delhi as well as any other proceedings arising therefrom are quashed.

15. The petition and pending applications are disposed of in the aforesaid terms. However, respondent No.2 is directed to pay costs of ₹ 10,000/- to the petitioner.

MANMOHAN, J

AUGUST 29, 2012
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