

Court No. - 39

Case :- FIRST APPEAL No. - 369 of 2022

Appellant :- Ashwani Kaushal

Respondent :- Smt. Mukta Singh

Counsel for Appellant :- Prem Shankar Kushwaha, Archana Singh

Counsel for Respondent :- Siya Ram Verma, Puran Nath Shukla, Sarita Dwivedi

Hon'ble Saumitra Dayal Singh, J.

Hon'ble Shiv Shanker Prasad, J.

1. Heard Sri Prem Shankar Kushwaha, learned counsel for the appellant, Sri Puran Nath Shukla, learned counsel for the respondent.

2. Present appeal has been filed under Section 19 of the Family Courts Act, 1984, arising from the judgment and decree dated 7.3.2022 passed by the learned Principal Judge, Family Court, Kanpur Nagar in Case No. 2187 of 2015 (Ashwani Kaushal Vs. Smt. Mukta Singh), by which application filed by the appellant under Section 13 of the Hindu Marriage Act, 1955 has been rejected.

3. Learned counsel for the respondent states that the correct name description of the respondent is 'Smt. Mukta Singh Sisodiya'. It is not disputed that the respondent in the present case is the same person.

4. Upon hearing the matter at some length, it was considered appropriate to call the parties to see if there exists any middle ground.

5. Upon interaction of the parties, the following order was passed on 20.9.2023:

"1. Heard Shri Prem Shankar Kushwaha, learned counsel for the appellant and Shri Puran Nath Shukla, learned counsel for the respondent.

2. Pursuant to the proceedings held in camera yesterday and also today, as a result of communication with the parties, who are present in the Court, broad terms of settlement have been reached between the parties such that they agree to dissolve their marriage subject to the appellant-Ashwani Kaushal paying to respondent-Smt. Mukta Singh Rs.47.5 lac as full and final settlement

amount including all claims of respondent.

3. The final terms of settlement may be reduced in writing and may be filed in Court tomorrow.

4. Put up tomorrow, i.e., 21.9.2023.

5. The parties, who are present in Court today, need not be present in Court in future."

6. Parties acted in compliance of above orders and filed their respective affidavits. Accordingly, the following order was passed on 21.9.2023:

"1. Joint affidavit of Shri Ashwani Kaushal and Smt. Mukta Singh Sisodia filed today, is taken on record.

2. By means of the joint affidavit, it has been disclosed to the Court that the parties have reached an amicable settlement. Upon fulfilment of such terms, their marriage may be dissolved.

3. At this stage, it has further been informed that there are three proceedings pending against Shri Ashwani Kaushal, (i) arising from an FIR lodged under Section 498A, 323, 504, 506 IPC, (ii) for recovery under Section 125 Cr.P.C., and (iii) under the Domestic Violence Act.

4. Parties are agreed, subject to deposit of first instalment of the settlement i.e. Rs. 20,00,000/- on or before 6.10.2023, efforts would be made by Smt. Mukta Singh Sisodia to withdraw from the criminal proceedings instituted by her and/or allow Shri Ashwani Kaushal to seek appropriate relief to quash those proceedings.

5. Accordingly, put up on 6.10.2023.

6. Parties to abide by the settlement reached."

7. Thereafter, on 6.10.2023, the following order came to be passed:

"1. Heard Shri Prem Shankar Kushwaha, learned counsel for the appellant and Shri Puran Nath Shukla, learned counsel for the respondent.

2. Pursuant to the last order, Shri Prem Shankar Kushwaha has produced in Court a demand draft dated 27.09.2023 of Rs. 20,00,000/- in favour of the respondent, Smt. Mukta Singh, drawn on Canara Bank bearing no. 901131. The same has been handed over to Shri Puran Nath Shukla for onward communication to and encashment by the respondent. Balance Rs. 27,50,000/- may be deposited in favour of Registrar General, High Court Allahabad.

3. If the criminal cases instituted by the respondent are withdrawn or proceedings therein quashed by that date, in that event the demand draft may be prepared in the name of the respondent.

4. Put up on 30.10.2023."

8. Last, on 30.10.2023, the following order was passed:

"1. Affidavit of compliance filed by the respective parties is taken on record.

2. Pursuant to the earlier orders dated 20.9.2023 and 21.9.2023, parties have agreed to dissolve their marriage subject to certain payments to be made by the present appellant and further subject to other criminal proceedings being dropped. At present, one criminal proceeding survives against the present appellant with respect to that proceedings, Application u/s 482 Cr.P.C. is stated to be pending before this Court.

3. Accordingly, Demand Draft of Rs. 27,50,000/- being the balance amount payable to the respondent, bearing no. 460365 dated 25.10.2023, drawn in favour of the Registrar General of this Court, is taken on record. Let the same be encashed by the Registrar General and the amount be retained in the interest bearing deposit till the next date.

4. List on 28 November 2023. Liberty is granted to the parties to apply for early hearing of the Application u/s 482 Cr.P.C."

9. Today, both counsel for the parties specifically state that the terms of the settlement have been acted upon, inasmuch as besides payment of Rs. 20,00,000/- (Twenty lacs) received by the respondent, the balance amount of Rs. 27,50,000/- (Twenty seven lacs and fifty thousand) is lying with the Registrar General of this Court. As to the fate of the criminal prosecution instituted by the respondent no.1, Sri Shukla would submit that the respondent has filed an application before the learned court below to withdraw the criminal prosecution and to allow it to be dropped. At the same time, Sri Kushwaha would inform, he has filed an application being Criminal Misc. Application u/S 482 Cr.P.C. No. 28190 of 2016. The criminal prosecution arising in Case Crime No. 113 of 2016, under Sections 498-A, 323, 504, 506 I.P.C. and Section 3/4 D.P. Act, P.S. Chakeri, District Kanpur Nagar, is agreed to be dropped.

10. As to the exact terms of the settlements, those have already been brought on record by means of a joint affidavit dated 21.9.2023.

11. Thus, it is seen barring one criminal case, there are no criminal or civil proceedings pending between the parties.

12. Accordingly, the present appeal is **allowed** in terms of the settlement reached between the parties as described in the joint affidavit dated 21.9.2023. It is further provided that the amount of

Rs. 27,50,000/- (Twenty seven lacs and fifty thousand) lying with the Registrar General be released in favour of the respondent - Smt. Mukta Singh Sisodiya, provided a certified copy of this order is produced before the Registrar General of this Court within a period of two weeks.

13. Subject to such amount being released in favour of the respondent - Smt. Mukta Singh Sisodiya, the marriage between the parties shall stand dissolved. The respondent specifically undertakes not to object to the application being Criminal Misc. Application u/S 482 Cr.P.C. No. 28190 of 2016 being allowed in favour of the appellant.

Order Date :- 28.11.2023

CS/-