

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FAMILY COURT APPEAL No. 81 OF 2014

Sharad Walia. ..Appellant.
Versus
Shikha Seth @ Walia. ..Respondent.

Mr. S. A. Sawant for the Appellant.
Ms. Veena Gowada for the Respondent.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.
Date : **January 9, 2015.**

P. C. :

1. Parties to this appeal have amicably settled their dispute and have filed consent terms, which read thus :

CONSENT TERMS

The Appellant and Respondent have amicably settled the dispute and are filing the Consent Terms in this Hon'ble Court to record as under:

1. The parties herein i.e. the Appellant and the Respondent have withdrawn all the allegations made against each other.
2. The Appellant herein has agreed to pay a sum of Rs. 45,00,000/- (Rupees Forty Five Lakhs) to the Respondent herein as and by way of alimony and towards full and final settlement and Respondent shall not have any claim in future against the Appellant and his family members, the said amount can be spent by the Respondent exclusively. The said amount will be paid by the Appellant to the Respondent by way of two Pay Orders/Demand Drafts of Rs.25,00,000/- (Rupees Twenty Five Lakhs Only) bearing No.957257

dated 1st December, 2014 drawn at City Bank, New Delhi and of Rs.20,00,000/- (Rupees Twenty Lakhs Only) bearing No. 957297 dated 17th December, 2014 drawn at City Bank, New Delhi in all Rs.45,00,000/- (Rupees Forty Five Lakhs Only)

3. Both the parties agree and declare that the Criminal Complaint dated 10th January, 2012 filed by her under Section 406, 498-A of the Indian Penal Code before the Janak Puri Police Station, Delhi, which has now culminated in a case bearing F.I.R. No. 228/2012 against the Appellant and his father Sh. Mahinder Kumar Walia and mother Smt. Raj Walia shall be quashed after the Respondent receives the above mentioned amount of Rs. 45,00,000/- (Rupees Forty Five Lakhs). The Respondent undertakes that she withdraws all the allegations made in the Criminal Complaint dated 10th January, 2012 filed by her U/s.406, 498-A of Indian Penal Code. Both the parties hereby prays that this Hon'ble Court be pleased to quash the said Criminal Complaint dated 10th January, 2012 filed U/s.406, 498-A of Indian Penal Code.

4. That the Appellant shall file proceeding before the Hon'ble Delhi High Court for quashing. The Respondent agrees and undertakes to file an affidavit in the form of NOC for quashing of case F.I.R. No. 228/2012 against the Appellant and his father Sh. Mahinder Kumar Walia and mother Smt. Raj Walia at Police Station Janak Puri, New Delhi U/s 498-A/406/34 IPC and also undertakes that she will appear before the Hon'ble Delhi High Court any time between 1st March 2015 to 15th March 2015 and if the Respondent is not able to keep herself present between 1st March 2015 to 15th March 2015, then the Respondent undertakes that she will appear before the Hon'ble Delhi High Court or any other appropriate Court before 15th April 2015, for the hearing of the quashing of this case, FIR, Charge sheet and subsequent proceedings which is now pending for adjudication before the Court of Ms. Ekta Gauba, MM, Tis Hazari Courts, Delhi. The Respondent also undertakes that she will co-operate in quashing of the case, FIR, Chargesheet and also subsequent proceedings which is now pending for

adjudication before the Court of Ms. Ekta Gauba, MM, Tis Hazari Courts, Delhi. It is also agreed, understood and undertaken by the parties that, the Appellant shall bear the expenditure for the Respondent's travel to Delhi for quashing as mentioned above and the Respondent shall bear her own expenses to travel back from Delhi.

5. Both the parties agree and undertake that they have not filed any civil or criminal case against each other or their parents before any police authorities or Govt. Authority or Court in India except the above stated FIR No. 228/2012 at PS Janak Puri New Delhi U/s 498-A/406/34 IPC which is now pending before the Ld. Court in Tis Hazari at Delhi. Both the parties also undertake that all complaints filed before all authorities and before police, or any other court shall hereby be treated as withdrawn.

6. Both the parties agree and declare that presently the Respondent is residing in the premises situated at: B-401, Lake Primrose, Lake Homes Phase 4, Powai, Mumbai which is taken on a leave and license basis by the Appellant till August, 2015 and the Appellant is paying rent of Rs. 45,000/- per month for the same. It is agreed, declared and undertaken between the parties that the Appellant shall continue to pay the rent for a period of five months i.e. including May 2015. The Respondent shall bear all other outgoings. Further, the Appellant agrees and undertakes to provide the Respondent with a photocopy of the leave and license agreement of the above mentioned premises within one week of signing of these consent terms.

7. The Respondent undertakes that for a period of two months post May 2015 i.e. from June 2015 to July 2015, she shall pay rent of the above mentioned premises at the rate of Rs. 45,000/- per month. She undertakes to transfer the amount in the Appellant's Citibank account bearing no. 5431545227 within 15 days from the signing of these consent terms.

8. It is agreed, declared between the parties that the Respondent shall be entitled to reside in the said house till 31st July 2015 subject to payment made by Respondent as per clause 7 hereinabove and the Appellant shall give notice of termination of the said leave and license agreement not before 30th June 2015. If the Respondent wishes to continue to reside in the same house after 31st July 2015, she may do so, on a fresh leave and license agreement.

9. It is agreed between the parties that if the Respondent is shifting out of the above mentioned premises, the Appellant may collect common household items which the Respondent does not wish to retain.

10. It is also agreed between the parties that neither the Appellant nor the Respondent have any further claim against each other for articles, jewellery or any other items and both parties will not make any claim or demand of what so ever nature against each other upon the compliance of these consent terms and shall voluntarily accept the decree of divorce upon the compliance of these consent terms.

11. Both the parties agree and undertake that they shall not in the future, file any kind of civil or criminal or any other claim/case against each other either in any court of law or police or Govt. Authority.

12. The Appellant and Respondent declares and undertakes that he shall not either directly or through any third party, in any capacity or manner, make, express, transmit, speak, write or verbalize or otherwise communicate or disseminate, in any way (or cause, assist, encourage, induce, support or participate in any of the foregoing), any remark, comment, message, information, declaration, communication or other statement of any kind, whether verbal, in writing, electronically transferred or otherwise, that might reasonably be construed to be derogatory or which brings disrepute to, or which disparages, or is critical of, or negative towards the Respondent.

13. Both the parties agree and declare that they have no claims against each other or their properties for the past, present or the future including maintenance and/or alimony as the full and final settlement has taken place between the parties.

14. Both the parties agree and declare that upon full and final settlement and thereupon getting a decree of divorce from this Hon'ble Court thereby converting the M.J. Petition No.A-2830 of 2011 filed before the Family Court, Bandra, Mumbai into a decree of divorce by way of mutual consent under Section 13(1)(b) of the Hindu Marriage Act, 1955.

15. Both the parties agree and declare that upon the compliance of all the terms of these Consent terms, this Hon'ble Court be pleased to pass an order thereby granting decree of divorce by mutual consent to the appellant and the Respondent and the Family Court Appeal No.81 of 2014 be disposed off by a decree of divorce by mutual consent pursuant to the present Consent Terms.

16. The Appellant and Respondent hereby undertake to sign the Petition/s, affidavit/s or other necessary papers for divorce by way of mutual consent under Hindu Marriage Act, appear before the High Court, make necessary statements on oath for divorce and also to render all kind of cooperation for divorce."

2. Consent terms are signed by both the parties as well as by their respective advocates. Parties are personally present in the Court. On specific query, they admitted contents of the consent terms. They submitted that appeal may be disposed of in terms of the consent terms. They also submitted that they have executed these consent terms voluntarily, on their own will and without their being any

coercion or force. In the light of above, consent terms are taken on record and marked "X" for identification.

3. In terms of clause (2) of the consent terms, towards the full and final settlement of the Respondent's claim for maintenance, the Appellant has given an amount of Rs.45 lacs to the Respondent by two demand drafts bearing No.957257 for Rs. 25 lacs and 957297 for Rs. 20 lacs drawn on City Bank, Mumbai. The Respondent - wife accepted that she has received these demand drafts.

4. Both parties state that they are residing separately since 2011.

5. In above circumstances, appeal is disposed of in following terms :

[i] The impugned order, i.e., order dated 31st January 2014 passed by the Judge, Family Court, Mumbai in Petition No.A-2830 of 2011 is hereby quashed and set aside.

[ii] Marriage between the Appellant and the Respondent solemnized on 23rd January 2005 is hereby dissolved by decree of divorce by mutual consent under section 13(1)(b) of the Hindu Marriage Act, 1955.

[iii] Undertakings given by both the parties are accepted.

[iv] Decree be drawn up accordingly.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]