

#28

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 06.10.2015

BAIL APPLN.2528/2014

KAMAL GUPTA

..... Applicant

Through: Mr. Praveen Kumar, Advocate

versus

STATE (GOVT OF NCT OF DELHI) Respondent

Through: Mr. Rajat Katyal, APP with SI Hukam Singh, PS-Mansarovar Park
Mr. Vineet Malhotra and Mr. Shubhendu Kaushik, Advocates for the complainant along with the complainant in person

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

1. The present is an application under section 438 of the Code of Criminal Procedure, 1973 (Cr.P.C.) seeking pre-arrest bail in FIR No.522/2014, under sections 406/498A/34 IPC read with section 4 of the Dowry Prohibition Act, 1961, registered at Police Station- Mansarovar Park, Delhi.

2. The application has been adjourned from time to time in order to enable the parties to arrive at an amicable settlement of all their outstanding matrimonial disputes. The applicant as well as the complainant (wife), who are present in Court today state in unison that with the assistance and advice of Mr. Praveen Kumar, learned counsel appearing on behalf of the applicant and Mr. Vineet Malhotra, learned counsel appearing on behalf of the complainant (wife) a Memorandum of Understanding dated 06.10.2015 has been arrived at between the parties to the marriage. A copy of the said Memorandum of Understanding dated 06.10.2015 along with the supporting affidavits filed on behalf of the applicant as well as the complainant (wife) have been handed over in Court today. The same are taken on record.

3. The relevant recitals of the said Memorandum of Understanding dated 06.10.2015 are as follows:-

- “1. It has been agreed that the SECOND PARTY shall pay and the FIRST PARTY shall be paid an amount of Rs.3,00,000/- (Rupees Thirty Lacs Only) towards full and final settlement in respect of the claim of the FIRST PARTY towards stridhan, maintenance-past, present, future and permanent alimony and upon receipt thereof, the FIRST PARTY shall have no other claim of any kind whatsoever.

2. It is agreed that the payment shall be made by the SECOND PARTY to the FIRST PARTY in the following manner:-
- (i) Rs.5,00,000/- (Rupees Five Lacs Only) by way of demand draft at the time of signing of the petition under section 13B(1) of Hindu Marriage Act;
 - (ii) Rs.5,00,000/- (Rupees Five Lacs Only) by way of demand draft at the time of appearance and making statement before the Court in the petition under section 13B(1) of Hindu Marriage Act;
 - (iii) Rs.10,00,000/- (Rupees Ten Lacs Only) by way of demand draft at the time of appearance and making statement before the Court in the petition under section 13B(2) of Hindu Marriage Act; and
 - (iv) Rs.10,00,000/- (Rupees Ten Lacs Only) by way of demand draft at the time of appearance and making statement before the Court in the petition under section 482 of Cr.P.C. for quashing of the FIR bearing No.522 of 2014 under sections 498A/406/34 of IPC r/w section 4 of Dowry Prohibition Act by the FIRST PARTY to the SECOND PARTY.
3. It is agreed that within 15 days of receipt of the entire amount, the FIRST PARTY shall withdraw its petition filed by her under section 12 of the Protection of Women from Domestic Violence Act being petition No.V-136 of 2014 titled as “Ruchika Gupta vs. Kamal Gupta, which is pending disposal before the Court of Ms. Ritu Singh, M.M., Mahila Courts, Karkardooma Courts, Delhi and the

petition under section 125 of Code of Criminal Procedure being Petition No.1244 of 2014 titled as “Ruchika Gupta vs. Kamal Gupta, which is pending disposal before the court of Shri B.R. Kedia, Principal Judge, Family Courts, Karkardooma Courts, Delhi.

4. It is agreed that the SECOND PARTY shall forthwith withdraw the petition filed by him under section 9 of Hindu Marriage Act being HMA No.454 of 2014 titled as “Shri Kamal Gupta vs. Smt. Ruchika Gupta, which is presently pending in the Court of Ms. Reena Singh Nag, Judge Family Court (West), Tis Hazari Courts, Delhi.
5. It is agreed that both the parties hereto shall file a petition under section 13B(1) of Hindu Marriage Act for a decree of divorce within one week of receipt of first payment of Rs.5,00,000/- by the First Party. A copy of the same is annexed as Annexure I.
6. It has been agreed between the parties that within 15 days after the expiry of the statutory period of six months from the date of filing of the petition under section 13B(1) of Hindu Marriage Act, the parties hereto shall file the Second Motion Petition under Section 13B(2) of Hindu Marriage Act for dissolution of marriage by a decree of divorce by mutual consent. A copy of the same is annexed as Annexure II.
7. It is agreed that if within a period of 15 days from the date of expiry of the statutory period of 6 months, the SECOND PARTY does not cooperate in filing or fails to sign or fails to appear on the date fixed for hearing of SECOND MOTION PETITION then the FIRST PARTY shall be entitled to receive the said amount due and payable at the time of appearing in court in second motion.
8. It is agreed between the parties that after grant of divorce within 15 days, the SECOND PARTY and the persons

named in the FIR shall file a petition under section 482 of the Code of Criminal Procedure for quashing of FIR No.522 of 2014 under sections 498A/406/34 of IPC r/w section 4 of Dowry Prohibition Act, before the Hon'ble High Court of Delhi at New Delhi. The FIRST PARTY undertakes that she shall sign necessary papers, appear and make necessary statement before the Hon'ble High Court for quashing the FIR.

9. It has been agreed between the parties that the parties shall not claim any right, title or interest in respect of the properties movable or immovable of each other in future either occupied by them personally or acquired through their predecessors.
10. That the parties state and undertake that all disputes and misunderstandings of all kind whatsoever between the parties have been amicably settled and resolved. The parties undertake to withdraw all complaints, if any, filed by anyone. The parties further undertake not to file any further complaint against each other arising out of or in connection with or in any manner related to marriage and/or marital relationship between the parties.
11. That the parties further undertake not to initiate any legal action of any kind whatsoever against each other or respective family members in future.
12. It has been agreed between the parties that after the dissolution of marriage, the parties shall not interfere in any manner whatsoever in the life of each other.
13. It has been agreed between the parties that the parties hereto shall not level any kind of allegations-counter allegations against each other among the relatives, family members, social media or any other network, etc.
14. It has been further agreed between the parties that the parties shall be bound by the terms and conditions of the

present Memorandum of Understanding and the parties hereto shall strictly abide by the aforesaid terms and conditions.

15. It is agreed that if for any reason whatsoever, the SECOND PARTY fails to sign, appear and cooperate for filing of the SECOND MOTION PETITION then the FIRST PARTY will be liable to receive and the SECOND PARTY will be liable to pay the balance amount of Rs.10,00,000/- along with further penalty amount of Rs.5,00,000/- in case of any default or delay in filing of the petition under section 13B(2) of Hindu Marriage Act beyond the period of 15 days from the expiry of 6 months from the date of filing of the petition under section 13B(1) of Hindu Marriage Act. In case the First Party fails to sign and appear and cooperate for filing of the second motion or quashing petition, the first party shall refund the entire amount received till then along with Rs.5,00,000/- towards penalty to the Second Party.
16. The parties hereto have arrived at the aforesaid settlement with their respective free will, consent desire and volition and without any force, fraud, pressure, coercion, undue influence or threat from any quarter whatsoever.

IN WITNESS WHEREOF, the parties hereto have put their respective signatures unto this Memorandum of Understanding on the day, month and year first above written.”

4. The agreement entered into between the parties is lawful and the same is accepted. The parties shall now abide by the terms and conditions thereof without demur.

5. Mr. Praveen Kumar, learned counsel appearing on behalf of the applicant, on instructions from the applicant, undertakes to comply with all the milestone payments as agreed by and between the parties.

6. The present dispute arose out of a matrimonial discord. The same has been settled as aforesaid. As a consequence of the settlement arrived at between the parties, quietus will be applied to the following proceedings in addition to the disposal of the present bail application:-

- (i) HMA No.454/2014 titled as “Shri Kamal Gupta vs. Smt. Ruchika Gupta”, pending in the Court of Ms. Reena Singh Nag, Judge, Family Court (West), Tis Hazari Courts, Delhi.
- (ii) Petition No.V-136 of 2014 titled as “Ruchika Gupta vs. Kamal Gupta”, under section 12 of the Protection of Women from Domestic Violence Act, pending in the Court of Ms. Ritu Singh, M.M., Mahila Courts, Karkardooma Courts, Delhi.
- (iii) Petition No.1244/2014, under section 125 Cr.P.C., titled as “Ruchika Gupta vs. Kamal Gupta”, pending in the Court of Sh. B.R. Kedia, Principal Judge, Family Courts, Karkardooma Courts, Delhi.

7. In the present case, it is observed that the applicant has clean antecedents and is employed with a multi-national organization.

8. The applicant has cooperated with the investigation and there is neither any hint nor allegation that he shall not be available to stand trial, if any, or that he shall tamper with the evidence or influence the witnesses.

9. Resultantly, the present application is allowed. In the event of his arrest, the applicant shall be enlarged on bail on his furnishing a personal bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount to the satisfaction of the Arresting Officer/Station House In charge.

10. The application is disposed of accordingly.

SIDDHARTH MRIDUL, J

OCTOBER 06, 2015

dn