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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 12.08.2015

W.P.(CRL) 1690/2015

NIKHIL KUNDRA & ORS

..... Petitioners
Through: Mr. Subhash Chand, Advocate

versus

THE STATE OF DELHI & ORS

..... Respondents
Through: Ms. Kamna Vohra, ASC (Criminal)
for R-1 & R-3 with WSI Madhvi
Bisht, Special Staff, East District,
Delhi
Mr. Rajeev Kumar, Advocate for R-2

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

1. The present is a petition under Article 226 of the Constitution of India read with section 482 of Cr.P.C., 1973 seeking quashing of FIR No.491/2011, under sections 498-A/406 IPC, registered at Police Station- Jagat Puri, Delhi and the proceedings arising therefrom.

2. Briefly encapsulated the facts are that the petitioner No.1 (husband) and respondent No.2 (wife) were married according to Hindu rites and customs on 02.06.2010 in Delhi. One female child, namely, Baby Anshika

was born out of the said wedlock on 09.06.2011 who is in the care and custody of respondent No.2 (wife). Due to ideological differences and misunderstandings the respondent No.2 filed a complaint which has fructified into the subject FIR. The petitioners, who are the husband and mother-in-law and the respondent No.2 were referred to the Mediation Centre, Tis Hazari Courts, Delhi by the Sessions court. With the aid and assistance of the Mediation Centre, the parties have arrived at an amicable resolution of their matrimonial dispute, inter alia, on the following terms and conditions:-

“12. The parties have settled their dispute on the following terms and conditions:

- (i) On account of the maintenance, permanent alimony or any other claim (present, past or future) of the complainant and baby Anshika, the petitioner has agreed to pay a full and final settlement amount, amounting to Rs.3,50,000/- (Rupees Three Lacs Fifty Thousand Only) to the complainant.
- (ii) The custody of child baby Anshika shall remain with the complainant only and the petitioner shall have no right, claim or interest against baby Anshika.
- (iii) The parties shall withdraw the cases filed by them against each other. Accordingly, the complainant shall withdraw her case filed under

Domestic Violence Act, within one week from the date of this settlement. The petitioner shall also withdraw his case for restitution of conjugal rights within one week from the date of this settlement.

- (iv) The parties shall jointly file a petition for dissolution of marriage by seeking divorce by mutual consent within 15 days from the date of this settlement. The petitioner shall pay Rs.1,50,000/- (Rupees One Lakh Fifty Thousand Only) to the complainant at the time of recording of statement in the First Motion of the Mutual Consent Divorce Petition.
- (v) The parties shall move the Second Motion in the Mutual Consent Divorce Petition at the earliest. The petitioner shall pay the remaining Rs.1,00,000/- (Rupees One Lakh Only) to the complainant at the time of recording of statement in the Second Motion.
- (vi) That within 15 days from the date of recording of statement in the Second Motion of Mutual Consent Divorce, the complainant shall relinquish her share in property bearing No.B-35, Ground Floor, Gopal Park, Krishna Nagar, Delhi-51 in favour of the petitioner or any other person by executing relinquishment/Gift Deed or any other document or by any other mode. Thereafter, the complainant shall have no right, title or interest in the aforesaid property.
- (vii) That within 15 days from the date of execution of relinquishment/Gift Deed or any other document, qua property bearing No. B-35, Ground

Floor, Gopal Park, Krishna Nagar, Delhi-5, the petitioner shall file a petition for quashing of FIR bearing No.491 dated 02.10.2011 in the High Court of Delhi and the complainant shall give her affidavit in form of No Objection in this petition. The petitioner shall pay the balance sum of Rs.1 lakh to the complainant at the time of recording of her statement in quashing petition in the High Court of Delhi.”

3. Counsel appearing on behalf of the parties state that a sum of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand) has already been received by the respondent No.2 in terms of the settlement agreement dated 17.09.2012. The balance sum of Rs.1,00,000/- (Rupees One Lakh) has been handed over in cash to the respondent No.2 in Court today. The respondent No.2, who is present in person and has been identified by IO WSI Madhvi Bisht, Special Staff, East District, Delhi, states that in view of the settlement agreement dated 17.09.2012, she does not now wish to proceed with the subject FIR and the proceedings arising therefrom.

4. Since the dispute between the parties which arose out of the matrimonial differences has been amicably resolved without any undue influence, pressure or coercion, no useful purpose will be served by proceeding with the subject FIR and the proceedings arising therefrom.

Resultantly, the subject FIR No.491/2011, under sections 498A/406 IPC, registered at Police Station- Jagar Puri, Delhi and the proceedings arising therefrom are hereby set aside and quashed qua all the petitioners subject to their depositing a sum of Rs.5,000/- each with the Delhi High Court Legal Services Committee within a period of two weeks from today. A receipt thereof shall be furnished to the concerned IO in the subject FIR.

5. The writ petition is disposed of accordingly.

SIDDHARTH MRIDUL, J

AUGUST 12, 2015

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