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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 07.10.2015

W.P.(CRL) 2258/2015 & CRL.M.A. 14849/2015

DINESH KUMAR & ORS

..... Petitioners

Through: Ms Neelam Chaudhary and
Mr Yudhvir Singh, Advocates.

versus

STATE & ORS

..... Respondents

Through: Mr Rahul Mehra, Standing Counsel
(Crl.) with Mr Jamal Akhtar,
Advocate.

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 the Code of Criminal Procedure, 1973 (hereinafter referred to as 'the Code') praying for a direction to quash FIR No.362/2014

under Sections 498A/406/34 IPC registered at Police Station- Najafgarh, New Delhi, and the proceedings arising therefrom.

2. The factual matrix is that the petitioner No.1 and respondent No.2 were married according to Hindu rites and ceremonies on 28.11.2012. Owing to ideological and temperamental differences the parties to the marriage have been living separately since 23.09.2013. On a complaint filed by the respondent No.2 (wife), the subject FIR was registered against the petitioner No.1 and his family members. With the aid and assistance of the Mediation Centre at the Dwarka Courts, New Delhi, the parties to the union have arrived at an amicable resolution of all their matrimonial disputes. The salient terms and conditions of the said settlement dated 27.01.2015 before the Mediation Centre at the Dwarka Courts, New Delhi, are as under:-

- “1. That both the abovesaid parties have settled all their claims/disputes with regard to their marriage. It has been agreed between the parties that they shall seek divorce by mutual consent.
2. That the respondent/husband has agreed to pay a sum of Rs.5,00,000/- (Rupees five lakhs only), towards full and final settlement of all claims of complainant/wife regarding dowry articles, stridhan, permanent alimony and maintenance (past, present and future), which

the complainant/wife has agreed to accept as such.

3. It has been agreed between the parties that the settled sum of Rs.5,00,000/- (Rupees five lakhs only) shall be paid by the respondent/husband to the complainant/wife in four installments by way of cash/DD as per the following schedule:

- (i) First installment of Rs.1,25,000/- shall be paid at the time of hearing of bail application on the date fixed i.e. on 30.01.2015.
- (ii) Second installment of Rs.1,25,000/- shall be paid at the time of recording of statement during first motion petition for divorce by mutual consent u/s. 13-B(1) of the Hindu Marriage Act, 1955, which shall be filed within one month from today.
- (iii) Third installment of Rs.1,25,000/- shall be paid at the time of recording of statement during second motion petition for divorce by mutual consent u/s.13-B(2) of the Hindu Marriage Act, 1955, which shall be filed within one month of expiry of minimum statutory period after first motion u/s. 13-B (1) Hindu Marriage Act, 1955, as per law.
- (iv) Fourth/last installment of Rs.1,25,000/- shall be paid at the time of recording of statement of complainant/wife in proceedings for quashing of FIR

No.362/14, U/s. 406/498A/34 IPC, PS
Najafgarh, New Delhi, before the
Hon'ble High Court of Delhi.

4. It has been agreed between the parties that petition for quashing of FIR shall be filed by the respondent/husband within one month from the passing of decree of divorce and the complainant/wife shall cooperate in the said proceedings.
5. It has been agreed between the parties hereto that they shall make appropriate statements before the concerned courts and shall cooperate with each other in all the legal proceedings.
6. It has been agreed between the parties hereto that they shall not file any claim/case against each other or family members related to their marriage.
7. That both the parties hereto shall bear their respective cost of litigation.
8. By signing this settlement, the parties hereto state that they have no further claims or demands against each other with respect to their marriage and all the disputes and differences in this regard have been amicably settled by the parties hereto during the process of meditation and that they shall not initiate any litigation in future against each other in respect of their marriage subject to fulfillment of terms of this settlement.

9. That the abovesaid parties shall be bound by the terms and conditions as mentioned above and shall appear before the Hon'ble Referral Court on the date fixed i.e. 30.01.2015 to make a statement in terms of this settlement.
10. In case any of the parties hereto does not abide by the terms and conditions of this settlement, other party shall be at liberty to take appropriate action as per law.
11. That the contents of this settlement have been explained to the parties in vernacular and they have understood the same. Both the abovesaid parties undertake that they have signed the above settlement after going through and understanding the contents and they have settled the dispute between themselves of their own will and without any force pressure or coercion from any quarter.”

3. In a nutshell it has been agreed by and between the parties that the petitioner No.1 shall pay, in aggregate, a sum of Rs.5,00,000/- to the respondent No.2 towards all the latter's claim including maintenance towards past, present and future. In pursuance to the said agreement dated 27.01.2015 the respondent No.2 (wife) has already received a sum of Rs.3,75,000/-. The balance amount of Rs.1,25,000/- has been paid to the respondent in court today.

4. The respondent No.2, who is present in person and has been identified by the IO in the subject FIR, SI S.P. Samariya, Police Station- Najafgarh, states that in view of the settlement arrived at between the parties, she is no longer keen to proceed with the subject FIR and the proceedings emanating therefrom.

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

6. Resultantly, FIR No.362/2014 under Sections 498A/406/34 IPC registered at Police Station- Najafgarh, New Delhi, and the proceedings arising therefrom are hereby set aside and quashed *qua* the petitioners subject to their depositing a sum of Rs.10,000/- each with the New Delhi Bar Association Library Fund within a period of two weeks from today. Receipt thereof shall be provided to the IO in the subject FIR.

7. The petition is disposed of accordingly.

SIDDHARTH MRIDUL, J

OCTOBER 07, 2015

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