

#30

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 3rd November, 2015

+ W.P.(CRL) 2522/2015

ANOJ PODDAR & ORS

..... Petitioners

Through

Mr. Yogesh Chhabra, Advocate

versus

STATE & ANR.

.... Respondents

Through

**Ms. Nandita Rao, ASC (Crl.) for State
SI P.L. Meena, P.S. Aman Vihar
Mr. Prashant Sharma, Adv. for the
respondent no. 2/complainant along
with respondent no. 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 the Code of Criminal Procedure, 1973 seeking quashing of FIR No. 227/2014 under Sections 406/498A/34 IPC registered at Police Station- Aman Vihar, Delhi and the proceedings arising therefrom.

2. The facts in brief are that the petitioner No.1 (husband) was married to respondent No.2 (wife) according to Hindu rites and customs on 8th June,

2006 at Delhi. Two minor children namely Saurabh and Mohit have been born out of the said wedlock. Both the sons are in the custody of respondent no. 2(wife). Owing to temperamental and ideological differences between the parties to the marriage, they started living separately since 21st August, 2013. On a complaint instituted by respondent no.2 (wife), the subject FIR was registered against the petitioner no. 1 (husband) and his family members.

3. Counsel for the parties state that with the aid and assistance of the Delhi Mediation Centre, Rohini District Courts, Delhi, the parties to the union have arrived at an amicable resolution of their matrimonial dispute culminating into a Settlement Agreement dated 24th April, 2014. The salient terms and conditions of the said Settlement Agreement dated 24th April, 2014 are as follows:-

“1. It is mutually settled between the parties that complainant/wife and accused/husband shall dissolve their marriage by decree of divorce by mutual consent without levelling allegations and counter allegations against each other in accordance with law before the Court of competent jurisdiction at Delhi.

2. It is settled that the accused/husband shall pay Rs. 8,50,000/- (Rupees Eight Lac Fifty Thousand only) to the complainant/wife towards full and final satisfaction of the

complainant qua all claims of the complainant past, present and future arising out of the marriage with accused/husband which shall include permanent alimony, istridhan, dowry articles, maintenance, and all other miscellaneous expenses.

3. The settled amount shall be paid as per the schedule, which is given below:

i) Rs. 2,00,000/- shall be paid to the complainant/wife by way of cash/DD at the time of bail before the Ld. Referral Court and the complainant will not oppose the bail of the accused.

(ii) Rs. 2,00,000/- at the time of recording statements in First Motion Petition U/s 13(B)(1) of Hindu Marriage Act which shall be filed by the parties jointly on or before 20.09.2014. Out of this amount, Rs. 1,00,000/- shall be fixed in FDR in the name of elder son Master Saurabh and the same shall be encashable at the time of attaining majority by him. However, the nominee of the said FDR shall be the complainant/mother.

(iii) Rs. 2,00,000/- at the time of recording statements in Second Motion Petition U/s 13(B)(2) of Hindu Marriage Act which shall be filed by the parties jointly at the earliest possible stipulated period of six months. Out of this amount, Rs. 1,00,000/- shall also be fixed in FDR in the name of younger son Master Mohit and the same shall be encashable at the time of attaining majority by him. However, the nominee of the said FDR shall be the complainant/mother.

(iv) Rs. 2,50,000/- at the time of recording statements for quashing of FIR No. 227/2014, titled as State vs. Anuj Poddar U/s 498-A/406/34 IPC PS Aman Vihar before the

Hon'ble High Court. The complainant shall cooperate with the accused in quashing of FIR. However, from this amount also, Rs. 50,000/- each shall be fixed in FDR in the name of both the sons namely Master Saurabh and Master Mohit and the maturity and nomination of the same shall be the same, as mentioned in the clauses (ii) and (iii).

4. It is settled that the custody of children shall remain with the mother only and that there shall have no custodial rights with the accused/husband or his family members with regard to children. However, the accused/husband shall have the visitation right qua both the sons and for this purpose, he can meet them in the Rohini Courts Complex on every last Saturday of every month between 11 a.m. till 5 p.m.

5. That if the complainant/wife wishes to purchase any property, then in that eventuality, she can get the FDRs encashed/withdrawn, which would be in the name of both the sons, however, the said property shall be purchased in the joint name of both the sons and the respondent/accused/husband shall not oppose the same.

6. That the connected cases, as above, shall be withdrawn by the party concerned after commencement of first motion.

7. Both the parties also undertake not to interfere in the life of each other in future.

8. In terms of the present settlement, there shall remain no case/claim/dispute between the parties and that none of the parties shall file any civil or criminal proceedings against each other in future and that if any other case/petition/complaint etc. between the parties is pending in any Court or Authority either against the parties or

against their respective family members and whether it is in the knowledge of other party or not, the same shall be withdrawn/got disposed of by the respective party.”

4. In a nutshell, it has been agreed by and between the parties to the union that respondent no. 2/wife shall be paid a sum of Rs. 8.5 lakhs towards all her claims against the petitioners past, present and future. The agreement between the parties is lawful and the same is hereby accepted.

5. Counsel for the parties further state that pursuant to the said Settlement Agreement dated 24th April, 2014, a sum of Rs. 6 lakhs has already been received by respondent no.2(wife). The balance sum of Rs. 2.5 lakhs has been brought to the Court in the shape of Demand Draft dated 21.09.2015 bearing No. 817309 drawn on Punjab National Bank, Kirari, Delhi Branch, in favour of respondent no. 2(wife) herein. Respondent No.2 (wife) acknowledges receipt thereof subject to its encashment.

6. In the present case, it is observed that pursuant to the settlement arrived at between the parties, a decree of divorce by mutual consent has already been obtained by the parties from the concerned Family Court.

7. Respondent No.2(wife)/complainant, who is present in Court and has been identified by her counsel as well as the Investigating Officer i.e. SI P.L.

Meena, Police Station- Aman Vihar, Delhi, states that in pursuance to the settlement arrived at between the parties to the union, she is no longer keen to proceed with the subject FIR and the proceedings emanating therefrom.

8. Since the dispute between the parties which arose out of a matrimonial discord between petitioner no. 1 and respondent no. 2 and resulted in the registration of the subject FIR has been settled amicably by way of a Settlement Agreement dated 24th April, 2014 without any undue influence, pressure or coercion; as the parties have obtained decree of divorce by mutual consent; and since the agreement between the parties is lawful, no useful purpose will be served by proceeding with the subject FIR and the proceedings arising therefrom.

9. Resultantly, the FIR No. 227/2014 under Sections 406/498A/34 IPC registered at Police Station- Aman Vihar, Delhi and the proceedings arising therefrom are hereby set aside and quashed *qua* all the petitioners subject to each of the petitioners depositing a sum of Rs. 5,000/- each with the Juvenile Justice Board-I, Delhi within a period of two weeks from today. Receipt thereof shall be provided to the Investigating Officer in the subject FIR.

10. With the above said directions, the writ petition is allowed and disposed of accordingly.

SIDDHARTH MRIDUL, J

NOVEMBER 03, 2015

sd

