

#28 & 45

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 16.12.2015

W.P.(CRL) 2921/2015

OM PRAKASH & ORS

..... Petitioners

Through: Mr. Jagdeep Tomar, Advocate

versus

STATE (NCT OF DELHI) & ANR

..... Respondents

Through: Mr. Ashish Aggarwal, ASC
(Criminal) with Mr. Piyush Singhal,
Advocate and SI Ashish Tyagi, PS-
Nihal Vihar for R-1
Mr. Jaideep Malik, Advocate for R-2

W.P.(CRL) 2922/2015

RAVINDER & ORS

..... Petitioners

Through: Mr. Jaideep Malik, Advocate

versus

STATE (NCT OF DELHI) & ANR

..... Respondents

Through: Ms. Nandita Rao, ASC (Criminal)
with SI Ashish Tyagi, PS- Nihal Vihar
for R-1
Mr. Jagdeep Tomar, Advocate for R-2

CORAM:
HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

CRL.M.A.18203/2015 (Exemption) in W.P.(CRL) 2922/2015

Exemption granted subject to all just exceptions.

The application is disposed of accordingly.

CRL.M.A.18202/2015 (Delay in Refiling) in W.P.(CRL) 2921/2015
CRL.M.A.18204/2015 (Delay in Refiling) in W.P.(CRL) 2922/2015

For the reasons stated in the applications, the delay in refiling the writ petitions is condoned.

The applications are disposed of accordingly.

W.P.(CRL) 2921/2015 & W.P.(CRL) 2922/2015

1. The present are petitions 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') seeking quashing of cross FIRs, one FIR bearing No. 158/2014, under Sections 308/342/34 IPC, registered at Police Station- Nihal Vihar, Delhi and the other FIR bearing No.160/2015, under Sections 323/452/354/427/34 IPC, also registered at Police Station- Nihal Vihar, Delhi and the proceedings arising therefrom.

2. The parties along with their counsel have been heard and both the petitions are being disposed of by this common order.

3. The subject FIRs were registered as a consequence of a matrimonial dispute between the family of the complainants in the respective FIRs. Jonny, who is the complainant in FIR No.158/2015 is the brother of Renu, who is the former daughter-in-law of Sushila Devi, the complainant in the other FIR No.160/2014. Renu and her husband have since obtained a decree of divorce by mutual consent by way of order dated 26.11.2014 passed by the concerned Family Court, Tis Hazari Courts, Delhi. The subject FIRs came to be registered on an altercation between the two sides when Jonny interceded on behalf of Renu with the family of Sushila Devi at the latter's residence.

4. The complainants in the subject cross FIRs namely, Jonny and Sushila Devi, who are present in person in Court, state that with the intervention of elders, relatives, friends and with the assistance of the Mediation Centre, Tis Hazari Courts, Delhi, the entire substratum of the dispute that led to the registration of the subject FIRs has been amicably settled. It is, therefore, prayed that the subject FIRs may be set aside and quashed. The salient terms and conditions of the settlement dated 27.03.2014 is as follows:-

- “1. It is agreed that the wife and husband shall dissolve their marriage by decree of divorce by mutual consent without leveling allegations and counter-allegations against each other in accordance with law.
2. It is agreed that the husband shall pay Rs.13,50,000/- (Rupees Thirteen Lakhs and Fifty Thousand Only) to the wife towards her all legal entitlements past, present and future arising out of the marriage with husband which shall include permanent alimony, maintenance, istridhan including jewellery and all other miscellaneous and legal expenses.
3. It is agreed that out of the total settled amount of Rs.13,50,000/-, the husband shall pay Rs.3,00,000/- (Rupees Three Lakhs only) to the wife today itself by way of cheque bearing No.417943 before the court of Sh. V.K. Bansal, ASJ (FTC), West, Tis Hazari Courts, Delhi.
4. It is agreed that the wife and the husband shall initiate appropriate legal proceedings before the Court of competent jurisdiction at Tis Hazari Courts for recording of First Motion in the first week of December, 2014. It is further agreed that at the time of recording of First Motion the in the first week of December, 2014. It is further agreed that at the time of recording of First Motion the husband shall pay Rs.3,50,000/- (Rupees Three Lakhs Fifty Thousand only) by way of PDC bearing No.417944 dated 03.12.2014 drawn on the Delhi State Co-operative Bank Ltd., New Delhi to the wife which is handed over today itself.
5. It is agreed that husband and wife shall initiate appropriate legal proceedings for recording of Second Motion before the Court of competent jurisdiction at Tis Hazari Courts in accordance

with law. It is further agreed that at the time of recording of second motion and dissolution of marriage by decree of divorce by mutual consent, the husband shall pay Rs.3,50,000/- (Rupees Three Lakhs Fifty Thousand only) by way of PDC bearing No.417945 dated 03.06.2015 drawn on the Delhi State Co-operative Bank Ltd., New Dehli to the wife which is handed over today itself.

6. It is agreed that the accused persons shall initiate appropriate legal proceedings for quashing of FIR bearing No.158/14 & 160/14 u/s 308/342/34 IPC & u/s 323/452/354/427/34 IPC respectively, P.S. Nihal Vihar within one month after the dissolution of marriage and at that time the husband shall pay Rs.3,50,000/- (Rupees Three Lakhs Fifty Thousand only) by way of PDC bearing No.417946 dated 03.07.2014 drawn on the Delhi State Co-operative Bank Ltd., New Delhi to the wife which is handed over today itself. It is further agreed that wife shall co-operate for the same.
7. It is further agreed that the concerned parties in FIR bearing No. 158/14 & 160/14 u/s 308/342/34 IPC & u/s 323/452/354/427/34 IPC respectively P.S. Nihal Vihar shall not oppose the respective bail applications filed by the opposite parties.
8. The wife is presently residing in property bearing No.72, out of Khasra No.15/22/2, measuring 60 Sq. Yards situated in the area of village Saffipur, Ranhola, Abadi known as Ranhola Village, Nangloi, New Delhi-110041. The said property belongs to Kavita, who is sister in law of wife. It is agreed that wife shall hand over the peaceful vacant possession today itself i.e. 27.03.2014 to Kavita.

9. It is agreed that the wife shall withdraw the present petition u/s 12 of D.V. Act as well as the complaint pending before the CAW Cell mentioned hereinabove on their respective next date of hearing.
10. The wife and the husband with the assistance of their respective counsels shall cooperate in the execution of the terms and conditions of this settlement.
11. It is settled that after compliance of the terms of the present settlement, there shall remain no dispute due between the parties arising out of the said marriage 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, the same shall be withdrawn/got disposed of by the respective party.
12. The parties have settled their dispute out of their own free will, without any fear, force, coercion or undue influence from any side.”

5. The agreement entered into between the parties is lawful and has been acted upon. *Inter alia*, it has been agreed by and between the parties that as a consequence of the above said settlement agreement, the cross-FIRs registered by them against each other shall be set aside and quashed and for this they will approach this Court for setting aside and quashing the subject FIRs. The present petitions are a consequence thereof.

6. Since the marital dispute, as a consequence of which the subject FIRs came to be registered, have been amicably settled between the parties, without any undue influence, pressure or coercion, no useful purpose shall be served by proceeding with the subject FIRs and the proceedings arising therefrom.

7. In view of the foregoing, the complainants in the subject FIRs namely Jonny and Sushila Devi, who are present in Court and have been identified by their respective counsel as well as the Investigating Officer SI Ashish Tyagi, Police Station- Nihal Vihar state in unison that in view of the amicable resolution of all their outstanding disputes, they are no longer keen to proceed with the subject FIRs and the proceedings arising therefrom.

8. In view of the foregoing, no useful purpose will be served by proceeding with the subject FIRs.

9. Resultantly, FIR bearing No. 158/2014, under Sections 308/342/34 IPC, registered at Police Station- Nihal Vihar, Delhi and the other FIR bearing No.160/2015, under Sections 323/452/354/427/34 IPC, also registered at Police Station- Nihal Vihar, Delhi and the proceedings arising therefrom are hereby set aside and quashed *qua* all the petitioners subject to each one of them depositing a sum of Rs.2,000/- with the Delhi High Court

Legal Service Committee within a period of two weeks from today. A copy of the receipt thereof shall be furnished to the Investigating Officer in the subject FIR namely SI Ashish Tyagi, Police Station- Nihal Vihar, Delhi.

10. With the above said directions, the present writ petitions are allowed and disposed of accordingly.

SIDDHARTH MRIDUL, J

DECEMBER 16, 2015

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