

#37

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 18.11.2015

W.P.(CRL) 2635/2015

RAKESH PRASAD & ORS

..... Petitioners

Through: Mr. M.K. Saroja and Mr. B.L.
Madhukar, Advocates

versus

NCT OF DELHI & ANR

..... Respondents

Through: Ms. Sumi Anand, Advocate for Mr.
Avi Singh, ASC (Criminal) for R-1
Mr. Manish Dixit, Advocate along
with respondent No.2/Complainant in
person

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

CRL.M.A.16710/2015 (Exemption)

Exemption granted subject to all just exceptions.

The application is disposed of accordingly.

W.P.(CRL) 2635/2015

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 (Cr.P.C.) seeking quashing of FIR No.420/2013, under Sections 498-A/406/34 IPC,

registered at Police Station- Vijay Vihar, Delhi and the proceedings arising therefrom.

2. Rakesh Prasad and Archana, petitioner No.1 and respondent No.2 respectively were married according to Hindu rites and ceremonies on 12.11.2009. No child has been born from the said wedlock. Owing to ideological and temperamental differences the parties to the marriage have been living separately since 02.01.2012. On a complaint filed by the respondent No.2 (wife) against her husband (petitioner No.1) and his family members, the subject FIR was registered.

3. Eventually better sense prevailed and the parties decided to settle all their matrimonial disputes. The settlement agreement dated 09.02.2015 is annexed to this petition as Annexure P-2. The salient terms and conditions of the said settlement agreement dated 09.02.2015 are as follows:-

“Joint Statement of
Smt. Archana w/o Sh. Rakesh Prasad, Aged about
33 years, R/o H. No.93, Pocket B-7, Sector-4,
Rohini, Delhi, DH.

And

Sh. Rakesh Prasad, S/o Sh. Bisun Prasad, Aged
about 36 years, R/o H.No.5, Pocket B-7, Sector-4,
Rohini, Delhi, JD.

On SA.

We have resolved all our matrimonial disputes/differences, amicably today in the Court. We have decided to dissolve our marriage by mutual consent and shall file the first motion of divorce by mutual consent within a month.

I Rakesh Prasad, have agreed and I undertake to pay a total sum of Rs.4.60 lacs to my wife towards full and final settlement of all her claims in respect of dowry/stridhan articles, maintenance – past, present and future and permanent alimony. Out of the said total sum of Rs.4.60 lacs, I have agreed to pay her a sum of Rs.1.50 lacs at the time of first motion; further a sum of Rs.1.50 lacs at the time of second motion which shall be filed within a week of lapse of statutory period of six months and balance amount of Rs.1.60 lac at the time of quashing of FIR No.420/13, u/s 406/498A/34 IPC, PS Vijay Vihar, before the Hon'ble High Court of Delhi which shall be filed within a month of second motion.

I, Archana, have agreed to accept a sum of Rs.4.60 lacs from my husband towards full and final settlement of all my claims in respect of dowry/stridhan articles, maintenance – past, present and future and permanent alimony. Out of the said total sum of Rs.4.60 lacs, I have agreed to accept a sum of Rs.1.50 lac at the time of first motion; further, a sum of Rs.1.50 lac at the time of second motion which shall be filed within a week of lapse of statutory period of six month and balance amount of Rs.1.60 lac at the time of quashing of FIR No.420/13, u/s 406/498A/34 IPC, PS Vijay Vihar, before the Hon'ble High Court of Delhi which shall be filed within a month of second motion.

I Archana, undertake to cooperate with my husband in quashing of the aforesaid before the Hon'ble High Court of Delhi. I, further, undertake to withdraw my petition under the DV Act within a week of first motion.

We both undertake to withdraw all the cases/complaints, if any, filed against each other and not to file any complaint/case/suit against each other or our respective family members in future before any Court of law or authority in respect to our matrimonial relations or any other claim arising out of it.

We shall be bound by our joint-statement made today. We pray that the present petition be disposed of as compromised.”

4. In pursuance to the aforesaid settlement a sum of Rs.3,00,000/- has already been received by Archana. The balance sum of Rs.1,60,000/- has been brought to the Court in the shape of a Demand Draft bearing No.805431 dated 17.09.2015 in favour of Archana Gautam drawn on State Bank of India, Rohini, Delhi and has been handed over to the respondent No.2 (wife) in Court today. Archana, the complainant-wife acknowledges receipt of the demand draft subject to realization thereof.

5. Archana, who is present in Court and has been duly identified by her counsel Mr. Manish Dixit Advocate 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 arising therefrom.

6. In view of the foregoing, since the dispute which resulted in the registration of the subject FIR has already been resolved amicably by the parties without any undue influence, pressure or coercion, no useful purpose will be served by proceeding with the subject FIR and the proceedings arising therefrom.

7. Consequently, FIR No.420/2013, under Sections 498-A/406/34 IPC, registered at Police Station- Vijay Vihar, Delhi and the proceedings arising therefrom are hereby set aside and quashed *qua* the petitioners subject to their depositing a sum of Rs.5,000/- (Rupees Five Thousand) each with the Delhi High Court Legal Services Committee within a period of two weeks from today. The receipt of the deposit be provided to the IO in the subject FIR.

8. The petition is disposed of accordingly.

SIDDHARTH MRIDUL, J

NOVEMBER 18, 2015

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