

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APL) NO. 852 OF 2016

(Dr. Firoz Mostafa Zaman s/o Waheduzzaman Sarkar & Ors. vs. The State of Maharashtra thr.
PSO, Panchpaoli, Nagpur & Anr.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
KUM. INDIRA JAIN, JJ.
DECEMBER 15, 2016.**

Heard Shri A.H. Jamal, learned counsel for the applicants, Shri R.S. Nayak, learned APP for non-applicant No. 1 and Shri Charlewar, learned counsel for respondent No. 2.

2. An additional affidavit is tendered today by applicant No. 1 – Dr. Firoz Mostafa Zaman.

3. Dr. Firoz Mostafa Zaman is present in Court with his counsel Dr. A.H. Jamal and non-applicant No. 2 – Smt. Nahid is also present in Court with her counsel Shri Charlewar. It is reported that Smt. Nahid is a daughter of Advocate M.N. Khan, who practices at Nagpur and he is also present in Court to assist Shri Charlewar, learned counsel.

4. To establish identity of non-applicant No. 2, though her father is very much present, Shri Charlewar, learned counsel has produced before this Court a photocopy of Aadhar card and PAN card. The documents are taken on

record.

5. Similar documents in respect of Dr. Firoz Mostafa Zaman are not available. However, Dr. Firoz has undertaken to provide PAN card and also his Bank account number on record of present proceedings within a period of four weeks from today.

6. After hearing respective counsel and considering the terms and conditions reproduced in paragraph 6 of the Criminal Application, in first half we had found that interests of minor child Aayan Zaman were not adequately protected. Accordingly, we gave parties time to discuss as requested.

7. As an outcome of that discussion, an additional affidavit sworn by Dr. Firoz Mostafa Zaman has been produced before this Court. Mutual compromise deed drawn on stamp paper of Rs.500/- (photocopy) is also placed on record along with it. The additional affidavit is taken on record and marked as Exh. 'X' for identification and photocopy of mutual compromise deed dated 09.12.2016 is taken on record and marked as Exh. 'Y' for identification.

8. Dr. Firoz Mostafa Zaman has shown his bonafides by expressing that to take care and protect interest of his son Aayan, he would submit to the orders of this Court.

9. It is not in dispute between the parties that total amount of Rs.5,50,000/- (Rs. Five lakh and fifty thousand only) was being offered as one time settlement by Dr. Firoz Mostafa Zaman. He had also agreed not to claim custody of son Aayan in any way. However, the parties have now agreed that as per mutual convenience and without disturbing education of child, Dr. Firoz Mostafa Zaman will have visitation rights. The modalities thereof are to be worked out by the parties mutually.

10. The amount of Rs.5,50,000/- has been split into two and Demand Draft of Rs.2,50,000/- is handed over to Smt. Nahid to take care of Aayan's immediate needs while another Demand Draft of Rs.3,00,000/- (also handed over) is to meet his future needs. Because of discussion between parties, Dr. Firoz Mostafa Zaman has agreed to provide amount of Rs.2,000/- per month more for education and other needs of minor Aayan for next two years starting from 01.01.2017. The parties agreed that this amount of Rs.2,000/- per month shall be thereafter reasonably increased considering the needs of Aayan and increase in cost of education.

11. The amount to be paid every month by Dr. Firoz Mostafa Zaman to his son shall be deposited directly from his account to the account of Smt. Nahid every month within first 10 days. Dr. Firoz Mostafa Zaman and Smt. Nahid have agreed to exchange their Bank account numbers

to facilitate this exercise.

12. This arrangement shall continue till son Aayan completes his education and is properly placed in his life. However, the parties can mutually change it after son Aayan attains majority.

13. PAN card number along with his permanent address shall be placed on record by Dr. Firoz Mostafa Zaman within next four weeks from today.

14. The amount of Rs.3,00,000/- shall be invested in the name of minor Aayan with Smt. Nahid as his guardian in any Nationalized Bank initially for a period of seven years in any scheme under which maximum interest will be offered with facility of its monthly withdrawal. The amount of interest, if withdrawn, will be used for education or other needs of Aayan.

15. Subject to above terms and conditions, we accept the compromise as arrived at between the parties and reproduced in paragraph 6 of the memo of Criminal Application No. 852 of 2016. This agreement shall come into force after PAN card number of Dr. Firoz Mostafa Zaman is filed in present proceedings and communicated to Smt. Nahid. Till then, none of the terms and conditions shall operate.

16. A perusal of paragraph 6 of Criminal Application

as also mutual compromise at Exh. 'Y' reveals that terms and conditions mentioned therein were/ are already agreed to by Dr. Firoz Mostafa Zaman and Smt. Nahid. They are present in Court and they also agree and accept the terms and conditions as laid down supra in this order.

17. In view of this settlement and order, FIR No. 98 of 2014 dated 21.03.2014, consequential charge sheet No. 250/14 dated 02.12.2014 in Criminal Case No. 38 of 2014 before the Judicial Magistrate First Class, Court No. 15, Nagpur, shall stand quashed and set aside immediately after the above mentioned PAN card is filed before this Court. PAN card and Bank Account Number of Smt. Nahid is already communicated to Dr. Firoz Mostafa Zaman.

18. Accordingly, Criminal Application is disposed of. No order as to costs.

JUDGE

JUDGE

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