

#34

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 15.01.2016

W.P.(CRL) 121/2016

SHAMMI KHURANA & ORS

..... Petitioners

Through: Mr. P.K. Khanna, Advocate

versus

STATE (NCT OF DELHI) & ANR

..... Respondents

Through: Ms. Richa Kapoor, ASC with Mr. Ashish Negi and Mr. Rohit Kaul, Advocates with SI Suraj Pal, PS-Keshav Puram for R-1
Mr. Ravinder Kumar, Advocate for R-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 (Cr.P.C.) seeking quashing of FIR No.72/2014, under Sections 498A/406/34 IPC, registered at Police Station- Keshav Puram, Delhi and the proceedings arising therefrom.

2. The facts in brief are that on 02.12.2001 Shammi Khurana (petitioner No.1 herein) married Aruna Khurana (respondent No.2/complainant herein) according to Hindu customs and ceremonies in Delhi. Two male children, namely, Master Piyush and Master Yash, aged 12 years and 9 years respectively, were born out of the said wedlock, who are in the care and custody of Shammi Khurana. Owing to ideological and temperamental differences the parties to the marriage have been living separately since 18.10.2013. On a complaint filed by Aruna Khurana against her husband, Shammi Khurana and his family members, the subject FIR was registered.

3. Eventually better sense prevailed and the parties decided to settle all their matrimonial disputes with the assistance of Delhi Mediation Centre, Rohini Courts, Delhi. The settlement agreement dated 11.11.2014 is annexed to this petition as Annexure P-5. The salient terms and conditions of the said settlement agreement dated 11.11.2014 are as follows:-

“1. Both the parties shall file a petition for divorce by mutual consent before the competent court of law and shall get their marriage dissolved.

2. In view of the present settlement, the respondent no.1/husband hereby agrees to pay a sum of Rs.1,50,000/- (Rupees One Lac Fifty Thousand Only) in full and final settlement to the complainant/wife qua all her claims arising out of the marriage with respondent no.1/husband which shall include permanent alimony,

stridhan, dowry articles, maintenance (past, present & future) and all other miscellaneous expenses.

3. First motion petition for divorce by mutual consent shall be filed by the parties jointly on or before 26.11.2014 before the competent court of law.

4. The respondent no.1/husband shall handover a demand draft of Rs.1,50,000/- to the complainant/wife at the time of recording of statement in the first motion petition. However, the complainant/wife undertakes to convert the amount of Rs.1,50,000/- into an FDR in her name and shall place the same on record before the Court of Ld. MM, which is dealing with the D.V. Act complaint. As per the settlement, the said FDR shall be released to the complainant/wife after completing all the formalities/withdrawal of cases till quashing of FIR.

5. The second motion petition shall be filed by the parties jointly before the competent court of law on or before 31.05.2015 i.e. after six months from the date of first motion or as per prevailing law.

6. The petition for quashing of FIR No.72/2014, under Sections 406/498A/34 IPC, P.S. Maurya Enclave, shall be filed before Hon'ble High Court of Delhi on or before 10.07.2015 and the complainant/wife shall cooperate with the respondent no.1/husband in getting the FIR quashed in the best possible manner and shall execute the relevant documents which would be required in getting the FIR quashed.

7. The respondent no.1/husband shall pay a sum of Rs.7500/- (Rupees Seven Thousand Five Hundred Only) towards the outstanding fees of both the children to the complainant/wife at the time of recording of statement in the first motion petition. However, from December 2014 onwards till 31.03.2015 the respondent no.1/husband shall be paying a sum of Rs.6000/- (Rupees Six Thousand Only) to the complainant/wife on 10th day of each calendar month, so that, she may incur expenses for the welfare and education of both the children.

8. It is also agreed between the parties that till 31.03.2015, the custody of both the children shall remain with the complainant/wife and thereafter, the custody of both the children namely Master Piyush and Master Yash shall remain permanently with the respondent no.1/husband in future from any competent court of law in any manner whatsoever.

9. As far as visitation of both the children are concerned, till 31.03.2015, the respondent no.1/husband shall be allowed to meet and visit both the children twice in a month on the date, time and place as mutually agreed between both the parties. However, after handing over the custody of both the children to the respondent no.1/husband, the complainant/wife shall be entitled to meet and visit both the children twice in a month on the date, time and place as mutually agreed between the parties in future.

10. Both the parties shall maintain a communication between both of them, so that, the purpose of visitation shall not be frustrated in any manner whatsoever.

11. The complainant/wife undertakes to withdraw the present complaint under D.V. Act from Ld. Referral Court on the next date of hearing i.e. 31.01.2015 with the liberty that in case, if the respondent no.1/husband is not coming forward to comply with the terms and conditions of the present settlement, the same can be revived in future by moving an appropriate application.

12. After completion of all the formalities in terms of the present settlement including the quashing of FIR, the complainant/wife shall be entitled to take the FDR which will be lying in the Ld. Referral Court and the respondent no.1/husband undertakes not to create any hurdle in releasing the same in favour of the complainant/wife.

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

14. There shall remain no case/claim/dispute due between the parties after compliance of terms and conditions of the present settlement and that none of the

parties shall file any civil or criminal proceedings against each other in future in respect of their marriage 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, the same shall be withdrawn/got disposed of by the respective party.

The parties entered into the present settlement/agreement voluntarily, without any fear, coercion, or undue influence from any corner, whatsoever. The parties shall be bound by this settlement and shall co-operate to execute this settlement in every possible manner, whatsoever.”

4. In a nutshell it has been agreed by and between the parties to the union that Aruna Khurana shall be paid a sum of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand Only) towards all her claims qua the marriage. In pursuance thereof, a sum of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand Only) has already been received by Aruna Khurana. The parties have already obtained a decree of divorce by mutual consent from the concerned Family Court by way of order dated 30.05.2015.

5. Aruna Khurana, respondent No.2/complainant, who is present in Court and has been duly identified by IO Suraj Pal, Police Station- Keshav Puram, Delhi 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.72/2014, under Sections 498A/406/34 IPC, registered at Police Station- Keshav Puram, Delhi and the proceedings arising therefrom are hereby set aside and quashed *qua* all the petitioners subject to their depositing a sum of Rs.5,000/- (Rupees Five Thousand Only) each with the Victims' Compensation Fund, Government of NCT of Delhi within a period of two weeks from today. The receipt of the said deposit shall be furnished to the concerned IO namely, SI Suraj Pal, Police Station- Keshav Puram, Delhi.

8. The writ petition is disposed of accordingly.

SIDDHARTH MRIDUL, J

JANUARY 15, 2016

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