

#3

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 16th February, 2016

+ W.P.(CRL) 326/2016 and Crl. MA No. 1766/2016 (Exemption)

SONU SINGH & ORS.

..... Petitioners

Through

Mr. Vishnu Sharma, Mr. Vishal Chaudhary and Mr. Sushil Kumar, Advocates along with petitioners

versus

STATE & ANR

..... Respondents

Through

Mr. Rajesh Mahajan, ASC (Crl.) with Ms. Parul Jamwal, Advocate SI Rajender Singh, P.S. Nand Nagri Mr. Jagdeep Sharma, Advocate for Resp. no.2/complainant along with Complainant

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

Crl. MA No. 1766/2016 (Exemption)

1. Exemptions allowed subject to all just exceptions.
2. The application is disposed of accordingly.

W.P.(CRL) 326/2016

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. 514/2013 under Sections 406/498A/34 IPC registered at Police Station- Nand Nagri, Delhi and the proceedings arising therefrom.

2. The facts in brief are that the petitioner no. 1 (husband) and respondent No.2/complainant (wife) were married to each other according to Hindu rites and customs on 24th November, 2007. Owing to temperamental and ideological differences between the parties to the marriage, they started living separately since 27th March, 2012. No child has been born out of the said wedlock. 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 intervention of Counseling Cell, Family Courts, Karkardooma Courts, Delhi, the outstanding matrimonial dispute between the parties to the union has been settled amicably by way of a Settlement Agreement dated 3rd February, 2015. The salient terms and conditions of the settlement as enshrined in the said Settlement Agreement are as follows:-

“4. It has been agreed between the parties that respondent shall pay a total sum of Rs. 8,30,000/- to the petitioner towards full and final settlement of all her claims arising out of their marriage which includes maintenance (present,

past or future) permanent alimony, dowry articles, stridhan and jewellery etc.

5. It has been further agreed between the parties that the above settled amount of Rs. 8,30,000/- shall be paid by the respondent to the petitioner by way of cash/demand draft in the following manner:

i. Rs. 2,30,000/- shall be paid by the respondent to the petitioner at the time of recording of statements of the parties in the first motion petition which shall be filed by the parties within a week from today itself.

ii. Rs. 2,00,000/- shall be paid by the respondent to the petitioner at the time of recording of the statements of the parties in the second motion petition. The second motion petition shall be filed by the parties within 15 days after expiry of statutory period six months.

iii. Rs. 1,00,000/- shall be paid at time of withdrawing the execution petition, Rs. 1,00,000/- shall be paid at time of withdrawing the petition under Section 125 Cr.P.C. and Rs. 1,00,000/- shall be paid at time of withdrawing DV Act and Rs. 1,00,000/- shall be paid by the respondent to the petitioner at the time of quashing of FIR No. 514/2013 PS Nand Nagri u/s 498A/406/34 IPC and 3/4 DP Act. It has been further agreed between the parties that the respondent shall file the petition for quashing of above FIR before the Hon'ble High Court of Delhi within a period of one month after dissolution of marriage. The petitioner undertakes to cooperate in all manner with the respondent and his family members and shall furnish necessary affidavit to the respondent for filing the same before the Hon'ble High Court of Delhi.

6. It has also been agreed that the respondent shall bear the litigation expenses occurred in both the motions of divorce.

7. It has also been agreed that both the parties shall file the first motion before the Hon'ble Family Court on or before 10/02/2015.

8. It has also been agreed that the first party undertakes not to file or claim any case of any type in future before any court of law in respect of the said marriage.

9. It has also been agreed that the second party undertakes not to file or claim any case of any type in future before any court of law in respect of the said marriage.

10. It is undertaken by Phool Kumari i.e. petitioner/first party that she will cooperate in quashing of above said FIR No. 514/2013 before the Hon'ble High Court of Delhi on the date fixed.”

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. 8,30,000/- towards all her claims *vis. a vis.* permanent alimony, stridhan, dowry articles, maintenance past, present and future etc. against the petitioners.

5. Counsel for the parties further state that pursuant to the said settlement between the parties to the union, a sum of Rs. 7,30,000/- has already been received by respondent no.2 (wife). The balance sum of Rs. 1 lakh has been brought to the Court in the shape of a Demand Draft dated 21st January, 2016 bearing No. 783149 in the sum of Rs. 50,000/- drawn on Syndicate Bank, Safdarjung Airport, New Delhi-110003 in favour of Phool Kumari, respondent no. 2(wife) herein and the remaining Rs. 50,000/- has been paid

in cash to her. The latter acknowledges receipt thereof subject to the encashment of the afore-stated demand draft.

6. In the present case, it is observed that pursuant to the settlement arrived at between the parties to the union, a decree of divorce by mutual consent dated 8th December, 2015 has already been obtained by the parties from the concerned Court.

7. Respondent No.2/complainant (wife), who is present in Court and has been identified by the Investigating Officer i.e. SI Rajender Singh, Police Station- Nand Nagri, 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 3rd February, 2015, without any undue influence, pressure or coercion; as the parties have obtained decree of divorce by mutual consent on 8th December, 2015; and the settlement 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. 514/2013 under Sections 406/498A/34 IPC registered at Police Station- Nand Nagri, Delhi and the proceedings arising therefrom are hereby set aside and quashed qua all the petitioners subject to their depositing a sum of Rs. 25,000/- in aggregate with the Victims' Compensation Fund within a period of three weeks from today. A copy of the receipt thereof shall be provided to the Investigating Officer in the subject FIR.

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

FEBRUARY 16, 2016
sd

SIDDHARTH MRIDUL, J