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*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 02nd February, 2016

+ W.P.(CRL) 210/2016

AMIT KUMAR & ORS. Petitioners
Through Mr. R.P.S. Bhatti, Advocate.

versus

THE STATE (GOVT OF NCT OF DELHI) & ANR. Respondents
Through Ms. Richa Kapoor, ASC with
Mr. Ashish Negi, Adv. for State.
SI Indrapal Singh, CAW Cell/East
Distt. Delhi.

**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 seeking quashing of FIR No. 332/2013 under Sections 498A/406/34 IPC registered at Police Station- Gandhi Nagar, 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 16th January, 2011. Owing to temperamental and

ideological differences between the parties to the marriage, they started living separately since August, 2011. 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 the outstanding matrimonial dispute between the parties to the union has been settled amicably before the Delhi Mediation Centre, Karkardooma Courts, Delhi by way of a Settlement Agreement dated 04th January, 2014. The salient terms and conditions of the afore-stated settlement are as follows:-

“1. It has been agreed between the parties that they shall take divorce by way of mutual consent.

2. It has been further agreed between the parties that Smt. Chanchal and Sh. Amit Kumar and his family members amicably reached to settlement by way of present settlement in mediation in all respects.

3. It has been further agreed between the parties that Sh. Amit Kumar and his family members shall pay a sum of Rs. 4,25,000/- (Rs. Four lac and twenty five thousand only) to Smt. Chanchal against all her claims towards stridhan articles including jewellery etc which also includes maintenance (present, past & future) as well as permanent alimony whatsoever in nature.

4. It has been further agreed between the parties that the total consideration of Rs. 4,25,000/- shall be paid by the Sh. Amit Kumar and his family members to Smt. Chanchal in three installments on different states of proceedings which are as under:-

(a) The first installment of Rs. 1,50,000/- shall be paid at the time of filing first motion petition for seeking divorce by way of mutual consent before the competent court at KKD Courts, Delhi which will be filed within one month from today. The amount shall be paid by way of bank draft/pay order in favour of complainant Chanchal. It is further agreed that at the time of first motion, Sh. Amit Kumar shall also handover the following articles i.e (i) Motorcycle Hero Honda Passion Pro along with R/C of the said motorcycle (ii) Fridge (iii) Washing machine (iv) Steel almirah (v) Dressing table (vi) one double bed (vii) one colour T.V of Sansui make (viii) one pair or mattresses of double bed (ix) some utensils (x) some clothes of complainant Smt. Chanchal.

It is clarified that all the above articles are as is where as basis and the utensils and clothes of the complainant are in lumpsum and the same would be given voluntarily by the husband to Smt. Chanchal and Smt. Chanchal shall not raise any objection with regard to receiving of utensils and clothes in terms of their quality and quantity.

(b) A sum of Rs. 1,50,000/- shall be paid by Sh. Amit Kumar to Smt. Chanchal by way of bank draft/pay order at the time of recording of statements of the parties in the second motion. The second motion petition shall be filed after expiry of six months from the date of order/judgment in first motion by the concerned court.

(c) The last and final installment of Rs. 1,25,000/- shall be paid by Sh. Amit Kumar to Smt. Chanchal by way of bank draft/pay order at the time of making statements before the Hon'ble High Court for seeking quashing of the FIR registered against Sh. Amit Kumar and his family members as stated above. It is clarified that the said petition shall be filed by Sh. Amit Kumar with the cooperation of complainant Smt. Chanchal after the order/judgment on the second motion for seeking divorce within one month after the said order/judgment.

5. It has been further agreed between the parties that after receiving the total consideration of Rs. 4,25,000/- and articles as stated above, there shall be no claim left of Smt. Chanchal in any respect whatsoever in future and Smt. Chanchal shall not file any litigation in this regard.

6. It has been further agreed between the parties that Smt. Chanchal shall not claim for ancestral property of Sh. Amit Kumar and his family members in future.

7. It has been further agreed between the parties that both the parties shall not file case or complaint against each other in future.

8. It has been further agreed between the parties that both the parties shall cooperate with each other for filing first motion, second motion and quashing petition of the FIR as and when required for preparation of the required petitions or signing required affidavits etc. It is clarified that the required petitions of first motion, second motion and quashing petition shall be borne by Sh. Amit Kumar but the complainant Smt. Chanchal shall cooperate with her

husband for signing the required petitions or their affidavits as and when she called for said purpose.

9. It has been further agreed between the parties that Sh. Amit Kumar shall withdraw his divorce petition from the court concerned at the time of filing the first motion petition for seeking divorce by way of mutual consent.

10. It has been further agreed between the parties that Smt. Chanchal shall also withdraw her petition U/s 125 Cr.P.C after obtaining the decree for divorce from the court concerned within 2 weeks from the date of passing decree for divorce from the concerned court.

11. It is further agreed between the parties that apart from the cases mentioned above, no other case or complaint is pending between the parties and that in case any such case/complaint is found pending between them, the same shall be withdrawn by the concerned party in terms of this settlement.”

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. 4,25,000/- 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. 3 lakhs has already been received by respondent no.2 (wife). The balance sum of Rs. 1.25 lakhs has

been brought to the Court in cash. The latter acknowledges receipt thereof.

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 29th June, 2015 has already been obtained by the parties from the concerned Family Court, East District, Vishwas Nagar, Delhi.

7. Respondent No.2/complainant (wife), who is present in Court and has been identified by the Investigating Officer i.e. SI Indrapal Singh, CAW Cell/East Distt. 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 before the Mediation Centre, Karkardooma Courts, Delhi by way of a Settlement Agreement dated 04th January, 2014 without any undue influence, pressure or coercion; as the parties have obtained decree of divorce by mutual consent on 29th June, 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. 332/2013 under Sections 498A/406/34 IPC registered at Police Station- Gandhi Nagar, Delhi and the proceedings arising therefrom are hereby set aside and quashed qua all the petitioners subject to each of the petitioners depositing a sum of Rs. 10,000/- in the aggregate with the Victims' Compensation Fund within a period of two weeks from today. A copy of the receipt thereof shall be provided to the Investigating Officer in the subject FIR.

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

FEBRUARY 02, 2016/sr

SIDDHARTH MRIDUL, J