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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 19th February, 2016

+ W.P.(CRL) 274/2016

SHIV KUMAR & ORS.

..... Petitioners

Through

Mr. S.K. Vashisht, Advocate along
with petitioner no.1

versus

THE STATE & ANR

..... Respondents

Through

Mr. Rajesh Mahajan, ASC (Crl.) with
Ms. Parul Jamwal, Advocate
SI Narinder Kaur, PS Nanak Pura CWC
Mr. S.R. Kaushik, Adv. for Respondent
no. 2/complainant along with
Respondent no. 2/complainant in-person

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. 160/2014 under Sections 406/498A/34 IPC registered at Police Station- CAW Cell, Nanakpura, 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 7th March, 2011. A girl child namely Plaksha was born out of the said wedlock, who is presently in the care and custody of respondent no.2/complainant (wife) herein. Owing to temperamental and ideological differences between the parties to the marriage, they started living separately since 7th October, 2013. 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 aid and assistance of learned Metropolitan Magistrate (Mahila Court), Dwarka Courts, New Delhi, the outstanding matrimonial dispute between the parties to the union has been settled amicably on 27th February, 2015 and the statements of the parties to the marriage have been recorded in this behalf. The respondent no. 2/complainant (wife) has in the said statement dated 27th February, 2015 stated as follows:-

**“Statement of Complainant Ms. Jyoti D/o Sh. Jai Gopal
R/o 45-46, Kamla Park, Dharampura, Najafgarh, New
Delhi.**

On SA

I have settled the case with all the respondents before the court of Ms. Manu Goel Kharb, MM Mahila Court-03, Dwarka towards full and final settlement amount of Rs. 4,60,000/- out of which Rs. 1.5 lac shall be paid by

respondent no. 1 Shiv Kumar at the time of recording the statement of first motion of divorce Rs. 1,50,000/- at the time of recording the statement of second motion of divorce and last installment of Rs. 1,60,000/- at the time of quashing the FIR No. 160/2014 u/s 498A/406/34 IPC, PS Najafgarh before Hon'ble High Court of Delhi. I undertake that I shall cooperate with the respondent in quashing the FIR. Respondent no. 1 shall not claim the custody or any other rights qua the child Plaksha. I will not claim any maintenance qua the child from respondent no.1. I am ready to abide by that settlement. I am giving this statement voluntarily without any force, threat, coercion or undue influence.”

4. Upon a query in this behalf, learned counsel appearing on behalf of the petitioners states that the statement made on behalf of respondent no.2/complainant (Wife) shall not and cannot preclude the minor child-Plaksha from the benefits that may accrue to her in terms of any law in force including the Hindu Adoption and Maintenance Act, 1956.

5. In a nutshell, it is agreed by and between the parties to the union that respondent no. 2 (wife) shall be paid a total sum of Rs. 4,60,000/- towards all her claims against the petitioners.

6. Counsel for the parties further state that pursuant to the said settlement between the parties to the union, the entire sum of Rs. 4,60,000/- has been received by respondent no.2 (wife). The latter acknowledges receipt thereof.

7. 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 7th November, 2015 has already been obtained by the parties from the concerned Family Court, Dwarka, Delhi.

8. Ms. Jyoti, the respondent No.2/complainant (wife), who is present in Court and has been identified by the Investigating Officer i.e. SI Narinder Kaur, PS CAW Cell Nanakpura, 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.

9. 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 learned Metropolitan Magistrate (Mahila Court), Dwarka Courts, New Delhi on 27th February, 2015, without any undue influence, pressure or coercion; as the parties have obtained decree of divorce by mutual consent on 7th November, 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.

10. Resultantly, the FIR No. 160/2014 under Sections 406/498A/34 IPC

registered at Police Station- CAW Cell, Nanakpura, Delhi and the proceedings arising therefrom are hereby set aside and quashed qua all the petitioners subject to their investing an aggregate sum of Rs. 40,000/- in the form of Fixed Deposit Receipt in a nationalized bank, in favour of the minor child- Plaksha, which shall be operated and renewed from time to time under the guardianship of respondent no. 2/complainant (wife), within a period of two months from today. A copy of the receipt shall be provided to the Investigating Officer in the subject FIR.

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

SIDDHARTH MRIDUL, J

FEBRUARY 19, 2016

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