

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 29th January, 2016

W.P.(CRL) 272/2016

AMIT BHARDWAJ

..... Petitioner

Through: Mr Rahul Tewari, Advocate.

versus

STATE (NCT OF DELHI) & ANR

..... Respondents

Through: Ms Kamna Vohra, Addl. Standing
Counsel (Crl.) with SI Suresh Chand,
PS- Rajouri Garden.

Mr Manoj Kr. Mahaur, 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 seeking quashing of FIR No.0749/2014 under Sections 406/498A/34 IPC registered at Police Station- Rajouri Garden.

2. The facts in brief are that the petitioner-husband and respondent No.2/complainant (wife) were married to each other according to Hindu rites and customs on 22.08.2009. However, no child has been born out of the said wedlock. Due to temperamental and ideological differences between the parties to the marriage, they started living separately since 04.01.2014. On a complaint instituted by respondent no.2 (wife), the subject FIR was registered against the petitioner-husband.

3. Counsel for the parties state that the outstanding matrimonial dispute between the parties to the union has been settled amicably. The salient terms of the amicable settlement as enshrined in the joint statement of the parties to the union, recorded at the time of Second Motion under Section 13(B)(2) of the Hindu Marriage Act before the concerned Family Court, Tis Hazari, Court, Delhi, are as follows:-

“4. We have amicably resolved all our disputes pertaining to this marriage including istridhan, permanent alimony, dowry articles and maintenance (present, past & future) for a sum of Rs.5,50,000/- towards full and final settlement. Out of the above settled amount of Rs.5,50,000/-, the first installment of Rs.1,50,000/- has already been paid by petitioner no.1 to petitioner no.2 at the time of recording the statement in First Motion. Second installment of Rs.1,50,000/- is being paid by paid by petitioner no.1

to petitioner no.2 in the court today by way of DD bearing No.572007 dated 28.10.15 drawn on Oriental Bank of Commerce, Tagore Garden, New Delhi. The copy of same is Ex. P-3. Third and Final installment of Rs.2,50,000/- shall be paid by petitioner no.1 to petitioner no.2 at the time of quashing of FIR No.749/14 u/s 498A/406/34 IPC, PS: Rajouri Garden, New Delhi before the Hon'ble High Court of Delhi.”

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.5.5 lakh towards all her claims *vis-à-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 lakh has already been received by respondent no.2 (wife). The balance sum of Rs.2.5 lakh has been brought to the Court in the shape of a demand draft bearing No.572351 dated 15.01.2016 drawn on Oriental Bank of Commerce, Tagore Garden, New Delhi, in favour of respondent no. 2(wife) herein. The respondent No.2 acknowledges receipt thereof subject to its encashment.

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 16.11.2015 has already been obtained by the parties from the concerned Family Court, Tis Hazari, New Delhi.

7. Respondent No.2/complainant (wife), who is present in Court and has been identified by the IO in the subject FIR, namely, Suresh Chand, PS-Rajouri Garden. Counsel representing her, 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 the petitioner and respondent no. 2 and resulted in the registration of the subject FIR, has been settled by and between the parties without any undue influence, pressure or coercion; as the parties have obtained decree of divorce by mutual consent on 16.11.2015, no useful purpose will be served by proceeding with the subject FIR and the proceedings arising therefrom.

9. Resultantly, FIR No.0749/2014 under Sections 406/498A/34 IPC registered at Police Station- Rajouri Garden, Delhi is hereby set aside and quashed qua the petitioner subject to his depositing a sum of Rs.2,000/- 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 directions the writ petition is allowed and disposed of accordingly.

JANUARY 29, 2016
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SIDDHARTH MRIDUL, J

