

#34

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

Date of decision: 03rd February, 2016

+ W.P.(CRL) 356/2016

VISHAL GUPTA & ORS. Petitioners

Through: Mr. Dinesh Garg, Adv.

versus

STATE & ANR Respondents

Through: Mr. R.S. Kundu (ASC) with Mr.
Ankit Kr. Gulia and Mr. Vishesh
Wadhwa, Advs. for State.
Mr. Devender Dhryan, Adv. with Mr.
Dheeraj Singh, Adv. for complainant.
SI Indrapal Singh, CAW Cell/East
Distt.

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. 70/2014 under Sections 498A/406/34 IPC registered at Police Station- Farsh Bazar, 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 18th May, 2013. Owing to temperamental and ideological differences between the parties to the marriage, they started living separately since 21st July, 2013. 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 High Court Mediation and Conciliation Centre. The terms of the above stated settlement are recorded in the order dated 20th October, 2015 of the Principal Judge, Family Courts, Karkardooma, Shahdara, Delhi in para No. 3 and are reproduced as follows:-

“The material on record indicates that marriage between the petitioners was solemnized according to Hindu rites and ceremonies on 18.05.2013. They resided together as husband and wife at Delhi. No child was born from the wedlock. Both the petitioners have been staying separately since 21.07.2013. Due to temperamental differences they could not adjust with each other. Efforts made by friends and relatives also went in waste and they could not reconcile. Both decided to part ways by obtaining decree of divorce by mutual consent. They also settled all their disputes and claims regarding istridhan, dowry, maintenance etc. as mentioned in petition Ex. P-1 and also memorandum of understanding which have been arrived at.

Total settlement was of Rs. 6,75,000/-. Rs. 2,25,000/- has already been paid by Petitioner No. 1 to Petitioner No. 2. Today, Rs. 2,25,000/- has been paid by Petitioner No. 1 to Petitioner No. 2. The balance amount of Rs. 2,25,000/- shall be paid by Petitioner No. 1 to Petitioner No. 2 at the time of quashing of FIR. Petitioners stated that their consent was free and there was no collusion between them. They had made their statements in sound state of mind.”

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. 6,75,000/- 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. 4,50,000/- has already been received by respondent no.2 (wife). The balance sum of Rs. 2,25,000/- has been brought to the Court in the shape of a Demand Draft dated 27th January, 2016 bearing No. 004033 drawn on Axis Bank, Delhi in favour of respondent no. 2(wife) herein. The latter 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 20th October, 2015 has already been obtained by the parties from the concerned Family Court, Karkardooma, Shahdara, 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. as well as by her counsel, 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 without any undue influence, pressure or coercion; as the parties have obtained decree of divorce by mutual consent on 20th October, 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. 70/2014 under Sections 498A/406/34 IPC registered at Police Station- Farsh Bazar, Delhi and the proceedings arising therefrom are hereby set aside and quashed qua all the petitioners subject to petitioners depositing a sum of Rs. 5,000/- each 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.

11. Copy of this order be given dasti under signatures of the Court Master.

FEBRUARY 03, 2016/sr

SIDDHARTH MRIDUL, J

