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

*Date of Decision: 6<sup>th</sup> May, 2016*

+ **W.P.(CRL) 1424/2016 and Crl. MA No. 7372/2016**

VINAY KUMAR & ORS

..... Petitioners

Through

Mr. Vikas Rao, Advocate along with  
petitioners

versus

STATE OF NCT OF DELHI & ANR

..... Respondents

Through

Mr. Sanjay Lao, ASC (Crl.) with  
Mr. Siddharth Sandhu, Advocate  
SI Vikash, PS Baba Haridas Nagar  
Respondent no. 2/complainant in-person

**CORAM:**

**HON'BLE MR. JUSTICE SIDDHARTH MRIDUL**

**SIDDHARTH MRIDUL, J. (ORAL)**

**Crl. MA No. 7372/2016 (for condonation of delay in re-filing the present writ petition)**

1. For the reasons stated in the application, the same is allowed. The delay in re-filing the present writ petition is hereby condoned.

2. The application is disposed of accordingly.

**W.P.(CRL) 1424/2016**

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. 645/2014 under Sections 406/498A/34 IPC registered at Police Station- Baba Haridas 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 ceremonies on 28.02.2009. No child has been born out of the said wedlock. Owing to temperamental and ideological differences between the parties to the marriage, they started living separately since the year 2010. 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 Mediation Centre, Dwarka Courts, New Delhi, the outstanding matrimonial dispute between the parties to the union has been settled amicably by way of Settlement Agreement dated 12<sup>th</sup> March, 2015. The salient terms and conditions of the said settlement are encapsulated as follows:-

“2. That the respondent/husband Sh. Vinay Kumar (For himself and also on behalf of other respondents) shall pay a total sum of Rs. 12,50,000/- (Rupees Twelve Lakh Fifty Thousand only) alongwith articles as per the admitted list annexed hereto as Annexure ‘A’ (running in two pages i.e. from Sr. No.1 to 39), duly signed by the parties hereto and the counsel for respondents, towards full and final settlement of all her claims regarding dowry, stridhan, permanent alimony and maintenance (past, present and future), which the complainant/wife Ms Kaushalya has agreed to accept as such.

3. It has been agreed between the parties hereto that the settled sum of Rs. 12,50,000/- (Rupees Twelve Lakh Fifty Thousand only) shall be paid by the respondent/husband Sh.

Vinay Kumar (for himself and also on behalf of other respondents) to the complainant/wife Ms. Kaushalya by way of cash/DD in four instalments, as per the following schedule:

(i) 1<sup>st</sup> instalment of Rs. 2,00,000/- (Rupees Two Lakh only) shall be paid at the time of grant of bail, before the Hon'ble Referral Court, on or before 20.03.2015.

(ii) 2<sup>nd</sup> instalment of Rs. 2,00,000/- (Rupees Two Lakh only) shall be paid at the time of recording of statement during first motion petition u/s 13(B)(1) of HMA, which shall be filed jointly by the parties i.e complainant/wife and the respondent/husband, on or before 07.04.2015.

(iii) 3<sup>rd</sup> instalment of Rs. 4,00,000/- (Rupees Four Lakh only) shall be paid at the time of recording of statement during second motion u/s 13(B)(I1) of HMA, which shall be filed within 15 days after expiry of minimum statutory period from the date of first motion petition u/s 13(B)(I) of HMA, as per law.

(iv) 4<sup>th</sup>/Last instalment of Rs. 4,50,000/- (Rupees Four Lakh Fifty Thousand only) shall be paid at the time of recording of statement of complainant/wife in proceedings for quashing of FIR No. 645/2014, PS Baba Haridas Nagar, u/s 498A/406/34 IPC, before the Hon'ble High Court of Delhi, against all the respondents in FIR No. 645/14.

4. That the application for quashing of FIR No. 645/2014, u/s 498A/406/34 IPC, PS Baba Haridas Nagar, New Delhi shall be filed by all the respondents in FIR No. 645/14, within one month, after passing of decree of divorce and the complainant Ms. Kaushalya shall appear before the Hon'ble High Court of Delhi and shall cooperate in the said proceedings.”

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. 12.5 lakhs towards all her claims *vis. a vis.* permanent alimony, dowry articles, maintenance past, present and future etc. against the petitioners.

5. Counsel for the parties further state that pursuant to the said settlement before the Mediation Centre, Dwarka Courts, New Delhi, a sum of Rs. 8 lakhs has already been received by respondent no.2 (wife). The balance sum of Rs. 4.5 lakhs has been brought to the Court in the shape of Demand Draft dated 6<sup>th</sup> May, 2016 bearing No. 778619 drawn on State Bank of India, PBB, New Delhi, in favour of Ms. Kaushalya, 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 19<sup>th</sup> November, 2015 has already been obtained by the parties from the concerned Family Court, Dwarka, New Delhi.

7. Ms. Kaushalya, respondent No.2/complainant (wife), who is present in Court and has been duly identified by the Investigating Officer in the subject FIR namely SI Vikash, Police Station- Baba Haridas Nagar, 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, Dwarka Courts, New Delhi without any undue influence, pressure or coercion; as the parties have obtained decree of divorce by mutual consent; and since 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. 645/2014 under Sections 406/498A/34 IPC registered at Police Station- Baba Haridas Nagar, Delhi and the proceedings arising therefrom are hereby set aside and quashed qua all the petitioners subject to their paying a sum of Rs. 10,000/- (in aggregate) with the Victims' Compensation Fund within a period of two weeks from today. A copy of the receipt thereof be provided to the Investigating Officer in the subject FIR.

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

**SIDDHARTH MRIDUL, J**

**MAY 06, 2016**

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