

#39

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 09.05.2016

W.P.(CRL) 1452/2016

AMIT KUMAR & ORS

..... Petitioners

Through: Mr. V.K. Malhotra, Advocate with
Ms. Rashi Aggarwal, Advocate

versus

THE STATE (N.C.T DELHI) & ANR Respondents

Through: Mr. Rahul Mehra, Standing Counsel
(Criminal) with Mr. Jamal Akhtar,
Advocate and ASI Jay Prakash, PS-
CWC, Nanak Pura, New Dehli for R-1
Mr. Sher Singh, Advocate for R-2
along with R-2 in person

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

CRL.M.A.7569/2016 (Delay in Refiling)

For the reasons stated in the application, which are duly supported by an affidavit, the delay in filing the present petition is condoned.

The application is disposed of accordingly.

W.P.(CRL) 1452/2016

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 (Cr.P.C.) seeking quashing of FIR No.133/14, under Sections 498-A/406/34 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 ceremonies on 24.11.2012. 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 15.05.2013. On a complaint instituted by respondent no.1 (wife), the subject FIR was registered against the petitioner No.1 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 with the assistance of Mediation Centre, Dwarka Courts, Delhi. The settlement agreement dated 05.01.2015 is annexed to this petition as Annexure B. The salient terms of the amicable settlement as enshrined in order dated 05.01.2015 of the Mediation Centre, Dwarka Courts, Delhi are as follows:-

“1. That complainant/wife and respondent/husband have settled all their claims/disputes with regard to their marriage. It has been agreed between them that they shall seek divorce by mutual consent.

2. That the respondent/husband has agreed to pay a sum of Rs.5,00,000/- (Rupees Five Lakhs only), towards full and final settlement of all claims of complainant/wife regarding dowry articles, stridhan, permanent alimony and maintenance (past, present and future), which the complainant/wife has agreed to accept as such.
3. It has been agreed between the parties that the settled sum of Rs.5,00,000/- (Rupees Five Lakhs only) shall be paid by the respondent/husband to the complainant/wife in three installments by way of cash/DD, as per the following schedule:
 - (i) First installment of Rs.2,00,000/- shall be paid at the time of recording of statement during first motion petition for divorce by mutual consent u/s 13-B(1) of the Hindu Marriage Act, 1955, which shall be filed within one month from today and the same shall be got drafted by respondent/husband and the complainant/wife shall cooperate in the same.
 - (ii) Second installment of Rs.2,00,000/- shall be paid at the time of recording of statement during second motion petition for divorce by mutual consent u/s 13-B(2) of the Hindu Marriage Act, 1955 which shall be filed within one month after expiry of minimum statutory period of first motion u/s 13-B(1) of the Hindu Marriage Act, 1955 as per law.

- (iii) Third/last installment of Rs.1,00,000/- shall be made at the time of recording of statement of complainant/wife in proceedings for quashing of FIR No.133/14, under sections 406/498A/34 IPC, PS CAW Cell, Nanak Pura, New Delhi, before the Hon'ble High Court of Delhi.
4. It has been agreed between the parties that the petition for quashing of FIR shall be filed by the respondents within two weeks from the passing of decree of divorce and the complainant/wife shall cooperate in the said proceedings.
5. That the respondent/husband shall return all the belongings of the complainant/wife to her as per admitted list annexure hereto as mark A, duly signed by both the parties hereto on 12.01.2015 at 3 PM before the concerned CAW Cell in presence of IO of the case.
6. That the complainant/wife shall withdraw the above-mentioned connected case under DV Act, within one week after recording of statement during first motion petition and before filing of second motion for divorce by mutual consent under Hindu Marriage Act, 1955, subject to fulfillment of terms and conditions of this settlement.
7. That the respondent/husband shall withdraw the above-mentioned connected case under HMA, within two weeks from today and before filing of first motion petition for divorce by mutual consent under Hindu Marriage Act, 1955, subject to fulfillment of terms and conditions of this settlement.

8. It has been agreed between the parties hereto that they shall make appropriate statements before the concerned courts/authorities and shall cooperate with each other in all the legal proceedings.
9. It has been agreed between the parties hereto that they shall not file any claim/case against each other or family members related to their marriage.
10. By signing this settlement, the parties hereto state that they have no further claims or demands against each other with respect to their marriage and all the disputes and differences in this regard have been amicably settled by the parties hereto during the process of mediation and that they shall not initiate any litigation in future against each other in respect of their marriage, subject to fulfillment of terms of this settlement.
11. That all the parties named hereinabove shall be bound by the terms and conditions as mentioned above and shall appear before the Hon'ble Referral Court on the date fixed i.e. 13.01.2015 to make a statement in terms of this settlement.
12. In case any of the parties hereto does not abide by the terms and conditions of this settlement, other party shall be at liberty to take appropriate action as per law.
13. That the contents of this settlement have been explained to the parties in vernacular and they have understood the same. All the abovesaid parties undertake that they have signed the above settlement after going

through and understanding the contents and they have settled the dispute between themselves of their own will and without any force, pressure or coercion from any quarter.”

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.5,00,000/- towards all her claims qua permanent alimony, stridhan, dowry articles, jewellery, 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 lakh has already been received by respondent no.2 (wife). The balance sum of Rs.1,00,000/- has been brought to the Court in cash and has been handed over to the respondent No.2 (wife). The latter acknowledges receipt thereof.

6. Respondent No.2/complainant (wife), who is present in Court and has been identified by the IO in the subject FIR, namely, ASI Sher Singh, Police Station- CAW Cell, Nanak Pura, 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.

7. 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 by way of a Settlement/Agreement dated 05.01.2015 without any undue influence, pressure or coercion; the settlement between the parties is lawful, no useful purpose will be served by proceeding with the subject FIR.

8. Resultantly, the FIR No.133/14, under Sections 498-A/406/34 IPC, registered at Police Station- CAW Cell, Nanakpura, Delhi and the proceedings arising therefrom are hereby set aside and quashed qua the petitioners subject to their depositing a sum of Rs.15,000/- in aggregate with the Victims' Compensation Fund within a period of four weeks from today. A copy of the receipt thereof shall be provided to the Investigating Officer in the subject FIR.

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

MAY 09, 2016
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SIDDHARTH MRIDUL, J