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

Date of Decision: 4th March, 2016

+ **W.P.(CRL) 711/2016 and Crl. MA No. 4002/2016**

NITIN BERY & ORS

..... Petitioners

Through

Ms. Manju Mehta and Mr. Kunal Mehta,
Advocates along with petitioners

versus

STATE & ANR

..... Respondents

Through

Ms. Nandita Rao, ASC (Crl.) with
Ms. Srilina Roy and Ms. Neha Dhir, Advs.
SI Raman Pratap, CAW Cell, Nanakpura
Ms. Charu Rustagi, Advocate for Resp.
No. 2/Complainant along with
Complainant

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J. (ORAL)

CRL.M.A. No. 4002/2016 (Exemption)

1. Exemptions allowed subject to all just exceptions.
2. The application stands disposed of.

W.P. (CRL.) 711/2016

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. 139/2014 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 19th August, 2006. Owing to temperamental and ideological differences between the parties to the marriage, they started living separately since 13th April, 2010. 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 with the aid and assistance of Mediation Centre, Patiala House Courts, New Delhi, all outstanding matrimonial disputes between the parties to the union have been settled amicably by way of a Settlement Agreement dated 5th June, 2015. The salient terms and conditions of the afore-stated settlement as enunciated in the order dated 5th June, 2015 are reproduced below:-

“1. Petitioner is agreed to pay Rs. 11,50,000/- (Rupees eleven lacs and fifty thousand only) to the respondent as full and final settlement towards stridhan, past, present and future alimony and maintenance.

2. Parties have also agreed to go for divorce by mutual consent and shall file petition in this regard on or before 01.07.2015.

3. The petitioner Shri Nitin Bery shall pay Rs. 4,00,000/- (Rupees four lacs) out of Rs. 11,50,000/- (Rupees eleven lacs and fifty thousand) to the respondent at the time of recording of the statement in the first motion of divorce petition by

mutual consent.

4. The petitioner Shri Nitin Bery shall withdraw his petition u/s 13(1)(i-a)(i-b) HMA on or before 01.07.2015.

5. The respondent Ms. Poonam Ahuja shall withdraw her petition u/s 125 Cr.P.C. on the date fixed in the petition before the court concerned.

6. The parties shall file petition for second motion for divorce by mutual consent immediately after expiry of six months from the date of order in the second motion petition.

7. The petitioner Shri Nitin Bery shall pay further Rs. 4,00,000/- (Rupees four lacs) to the respondent at the time of recording of the statement in the second motion of the divorce petition.

8. It is further agreed that the parties shall go for quashing proceedings arising out of FIR No. 139/2014 u/s 498A/406/34 IPC dated 25.09.2014 PS Nanak Pura, New Delhi registered on the complaint of respondent Ms. Poonam Ahuja.

9. The respondent Ms. Poonam Ahuja shall cooperate in quashing of the said FIR.

10. That the remaining amount of Rs. 3,50,000/- (Rupees three lacs and fifty thousand) shall be paid by the petitioner to the respondent at the time of quashing of FIR before the 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. 11.50 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, Patiala House Courts, New Delhi, a sum of Rs. 8.00 lakhs has already been received by respondent no.2 (wife). The balance sum of Rs. 3.50 lakhs has been brought to the Court in the shape of Demand Draft dated 18th February, 2016 bearing No. 027551 drawn on HDFC Bank, Roop Nagar, Delhi-110007 Branch 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 29th January, 2016 has already been obtained by the parties from the concerned Family Court, Patiala House, New Delhi.

7. Ms. Poonam Ahuja, respondent No.2/complainant (wife), who is present in Court and has been identified by the Investigating Officer- SI Raman Pratap, Police Station- 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.

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; 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. 139/2014 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 depositing a sum of Rs. 25,000/- in aggregate 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. It is also observed that as a consequence of the settlement arrived at by and between the parties to the marriage, a quietus will be applied to the case filed by the respondent no.2/complainant (wife) under Section 125 Cr.P.C. as well as the petition filed by the petitioner no. 1 (husband) against the respondent no.2/complainant (wife) under Sections 13(1)(ia) and (ib) of Hindu Marriage Act, 1955, in addition to the disposal of the present writ petition.

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

SIDDHARTH MRIDUL, J

MARCH 04, 2016

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