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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 29th February, 2016

+ W.P.(CRL) 656/2016 and Crl. MA No. 3620/2016 (Exemption)

DEEPAK GUPTA & ANR. Petitioners
Through Mr. Satish Kumar, Advocate along
with petitioners

versus

STATE & ANR Respondents
Through Ms. Richa Kapoor, Addl. Standing
Counsel (Crl.)
SI Rahul Malik, PS Sarai Rohilla
Mr. Durgesh Rao and Ms. Rama
Yadav, Advocates for Resp. No.
2/complainant along with
Complainant

CORAM:
HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

Crl. MA No. 3620/2016 (Exemption)

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

W.P.(CRL) 656/2016

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. 385/2013 under Sections 406/498A/34 IPC registered at Police Station- Sarai Rohilla, 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 5th December, 2012. 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 23rd November, 2013. On a complaint instituted by respondent no.2 (wife), the subject FIR was registered against the petitioner no. 1 (husband) and mother-in-law.

3. Counsel for the parties state that with the aid and assistance of Principal Judge, Family Court, Central District, Tis Hazari Court, Delhi, the outstanding matrimonial dispute between the parties to the union has been settled amicably by way of a Settlement Agreement dated 4th June, 2015. The salient terms and conditions of the settlement as enshrined in the said Settlement Agreement are as follows:-

“2. It is agreed between the parties that husband shall pay to the wife a sum of Rs. 2,75,000/- as full and final settlement (against stridhan and dowry, maintenance of wife and children towards past, present and future maintenance, education etc.) and after the payment of the

entire settled amount nothing shall remain due against the husband or his family members qua this marriage. The settled amount shall be paid in 3 installments.

3. It is further agreed between the parties that the husband will pay a sum of Rs. 1,00,000/- to the wife out of the total settlement amount at the time of recording of the statement in first motion divorce petition.

4. It is further agreed between the parties that the husband will pay a sum of Rs. 1,00,000/- to the wife out of the total settlement amount at the time of recording of the statement in second motion divorce petition.

5. It is further agreed between the parties that the husband will pay a sum of Rs. 75,000/- to the wife as full and final payment out of the total settlement amount at the time of quashing of the FIR bearing no. 385/2013 u/s 498A PS Sarai Rohilla before the Hon'ble High Court of Delhi. It is undertaken by the wife that she will cooperate with the quashing of the above FIR subject to the fulfillment of the terms of this settlement agreement FIR No. 578/2013 u/s 328/506 IPC PS Sarai Rohilla.”

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. 2,75,000/- 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. 2,00,000/- has already been received by respondent no.2 (wife). The balance sum of Rs. 75,000/- has

been brought to the Court in the shape of a Demand Draft dated 25th January, 2016 bearing No. 694936 drawn on Punjab National Bank, Shastri Nagar, Delhi in favour of Neha Gupta, 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 5th January, 2016 has already been obtained by the parties from the concerned Family Court.

7. Respondent No.2/complainant (wife), who is present in Court and has been identified by the Investigating Officer i.e. SI Rahul Malik, Police Station- Sarai Rohilla, 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 by way of a Settlement Agreement dated 4th June, 2015, without any undue influence, pressure or coercion; as the parties have obtained decree of divorce by mutual consent on 5th January, 2016; 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. 385/2013 under Sections 406/498A/34 IPC registered at Police Station- Sarai Rohilla, Delhi and the proceedings arising therefrom are hereby set aside and quashed qua both the petitioners subject to their paying further a sum of Rs. 15,000/- in aggregate to the complainant (wife) 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.

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

SIDDHARTH MRIDUL, J

FEBRUARY 29, 2016
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