

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision:14.03.2016

W.P.(CRL) 815/2016 & CRL.M.A. 4495/2016

VEDVART ROHILLA & ORS.

..... Petitioners

Through: Mr Nitin Mehta, Advocate.

versus

THE STATE (GNCT OF DELHI) & ANR

..... Respondents

Through: Ms Richa Kapoor, Addl. Standing
Counsel (Crl.) with Mr Ashish Negi,
Advocate.
SI Ajay Kumar, PS- Nangloi.

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.129/2013 under Sections 406/498A/34 IPC registered at Police Station- Nangloi, Delhi.

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 19.11.2010. A male child, namely, Shaurya was born out of the said wedlock and is in the care and custody of respondent No.2. Owing to temperamental and ideological differences between the parties to the marriage, they started living separately since May 2012. On a complaint instituted by respondent No.2, the subject FIR was registered against the petitioners.

3. Counsel for the petitioners as well as the respondent No.2, who appears in person and has been identified by the IO in the subject FIR, namely, SI Ajay Kumar, PS- Nangloi, state that with the aid and assistance of the Counselling Cell, Family Courts, Dwarka Court, New Delhi, the outstanding matrimonial dispute between the parties to the union has been settled amicably vide Settlement dated 19.02.2015. The salient terms and conditions as enshrined in Settlement dated 19.02.2015, are as follows:-

- “1. It is agreed between both the parties that they will take divorce by mutual consent.
2. It is agreed that the petitioner will pay an amount of Rs.8,00,000/- i.e. Rs.4,50,000/- to the respondent/wife and Rs. 3,50,000/- to the minor son Shaurya as full and final settlement and nothing remains due towards jewelery articles, dowry, stridhan, permanent alimony etc. qua this marriage.

3. It is agreed that the petitioner will pay an amount of Rs. 20,000/- in cash to the respondent/wife at the time of recording statements of settlement.
4. It is agreed that the first motion petition will be filed within one month of the settlement and the petitioner will pay Rs. 2,50,000/- i.e. Rs. 1,00,000/- in the form of DD to the wife and Rs. 1,50,000/- in the form of FDR in the name of minor son Shaurya.
5. It is agreed that the second motion petition will be filed after expiry of statutory period of six months and the petitioner will pay Rs. 2,50,000/- i.e. Rs. 1,00,000/- in the form of DD to the wife and Rs. 1,50,000/- in the form of FDR in the name of minor son Shaurya.
6. It is agreed that both the parties will approach the Hon'ble High Court of Delhi in quashing the matter u/s 498A, 406, 34 IPC vide FIR bearing No.129/13 at PS Nangloi within one month of obtaining the decree of divorce and the petitioner will pay Rs. 2,80,000/- i.e. Rs. 2,30,000/- in the form of DD to the wife and Rs. 50,000/- in the form of FDR in the name of minor son Shaurya.
7. It is agreed that the respondent will withdraw her cases i.e. matter under DV Act pending before the court of Ms. Ekta Gaba, Ld. MM, Tis Hazari Courts, Delhi and maintenance petition u/s 125 Cr.PC pending before the court of Ms. Reena Singh Nag, Ld. Principal Judge Family Court, Tis Hazari Courts, Delhi.

8. It is agreed between the parties that the custody of minor son Shaurya aged about 3 years shall remain with the mother/respondent and the father/petitioner shall have visitation rights to meet the child once in a month i.e. on Third Saturday of every month at Children's Room, Family Court, Dwarka Courts, New Delhi between 2:30 PM to 4:00 PM.
9. It agreed between the parties that if any party backs out from the settlement, a penalty of Rs. 2,00,000/- shall be levied on the defaulting party. In case the wife backs out from the settlement, she will be liable to refund the amount which might have received.
10. It is agreed that the parties will withdraw all pending cases, if any, and will not file any fresh complaints/litigation against each other.
11. It is agreed that the parties shall remain bound with the terms and conditions as mentioned in this settlement.”

4. Counsel for the petitioners as well as the respondent No.2, further state that pursuant to the said settlement between the parties to the union, a sum of Rs.5,20,000/- has already been received by respondent No.2 as per the terms of the settlement. The balance sum of Rs.2,80,000/- has been paid to the respondent No.2 in court today as follows:-

- (i) Rs.50,000/- by way of a cheque bearing No.437686 drawn on Axis Bank Ltd., Khan Market, New Delhi, dated 14.03.2016 in the name of Shaurya (the minor son).
- (ii) Rs.2,30,000/- by way of a demand draft bearing No.000998 dated 12.01.2016 drawn on Axis Bank Ltd., Mukherjee Nagar, Delhi, in favour of Meenakshi (the complainant).

5. The respondent No.2 acknowledges receipt of the abovementioned cheque/demand draft subject to their 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 04.11.2015 has already been obtained by the parties from the concerned Family Court, Tis Hazari Courts, Delhi.

7. Respondent No.2 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.

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 without any undue influence, pressure or coercion; as the parties have obtained decree of divorce by mutual consent on 04.11.2015;

and the settlement between the parties is lawful, no useful purpose will be served by proceeding with the subject FIR.

9. Resultantly, the FIR No.129/2013 under Sections 406/498A/34 IPC registered at Police Station- Nangloi, Delhi, is hereby set aside and quashed qua the petitioners subject to their depositing a sum of Rs.25,000/- in the 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 I O in the subject FIR.

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

SIDDHARTH MRIDUL, J

MARCH 14, 2016

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