

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 6th April, 2016

W.P.(CRL) 840/2016 & CRL. M.A. No.4568/2016

JAGDISH KUMAR & ORS

..... Petitioners

Through: Ms Himani Bhatnagar, Advocate for
Mr Amar Saini, Advocate.

versus

THE STATE & ANR

..... Respondents

Through: Mr Rajkamal, Advocate, for complainant.
SI Anand Prakash, PS- Khyala, Delhi.

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.45/2011 under Sections 406/498A/34 IPC registered at Police Station-Khyala, Delhi.

2. The facts in brief are that the petitioner no.2 (husband) and respondent No.2/complainant (wife) were married to each other according to Sikh/Hindu rites and customs on 11.12.2008. However, 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, 2010. On a complaint instituted by respondent no.2 (wife), the subject FIR was registered against the petitioner no.2 (husband) and his family members.

3. Counsel for the parties state that with the aid and assistance of Mediation Centre, Tis Hazari Courts, Delhi, the outstanding matrimonial dispute between the parties to the union has been settled amicably as reflected in the settlement dated 20.07.2011. The salient terms and conditions of the settlement dated 20.07.2011 are as follows:-

“1. Complainant, Manju and accused Deepak have taken a decision that they can not lead their life together as husband and wife and have agreed to seek dissolution of their marriage with their mutual consent.

2. It has been agreed that accused shall pay a sum of Rs. 1,50,000/- towards dowry articles and the maintenance of the complainant alongwith household articles as per Page No.13 of the list filed before the CAW Cell.

3. Accused, Deepak and Complainant, Manju shall file petitioner for seeking mutual divorce within 15 days. Accused shall pay a sum of Rs.50,000/- along with the afore stated household articles and two rings and two watches to the complainant at the time of entertainment of the first motion petition,

4. Another sum of Rs.50,000/- shall be paid by the accused to the complainant at the time of making statement in the second motion petition.

5. It has also agreed between both the parties that accused shall file petition for seeking quashing of FIR No. 45/2011, u/s 406, 498 IPC, P.S Khayala and the complainant shall appear and make necessary statement. The accused shall pay the remaining amount of Rs.50,000/- to the complainant before the Hon’ble High Court at the time of seeking quashing

of the aforesaid FIR.

6. The said quashing petition shall be filed by the accused within one month from the date of passing of the order in the second motion petition.”

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.1.5 lakh towards all her claims *vis. a vis.* permanent alimony, dowry articles, maintenance past, present and future etc. against the petitioner.

5. Counsel for the parties further state that pursuant to the said settlement, a sum of Rs.1 lakh has already been received by respondent no.2. The balance sum of Rs. 50,000/- has been brought to the Court in the shape of a Demand Draft dated 14.03.2016 bearing No.867858 drawn on Punjab National Bank, Sector-5, Rohini, Delhi, in favour of respondent no.2 herein. The respondent no.2 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 17.07.2012 has already been obtained by the parties from the concerned court, Tis Hazari, Delhi.

7. The respondent No.2/complainant (wife), who is present in Court and has been identified by the Investigating Officer, namely, SI Anand Prakash, Police Station- Khyala, 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 petitioners 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, no useful purpose will be served by proceeding with the subject FIR and the proceedings arising therefrom.

9. Resultantly, the FIR No.45/2011 under Sections 406/498A/34 IPC registered at Police Station-Khyala, Delhi, is hereby set aside and quashed qua the petitioners subject to their depositing a sum of Rs.20,000/- in the 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

APRIL06, 2016

mk