

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision:11.03.2016

W.P.(CRL) 798/2016

AJAY KUMAR & ANR

..... Petitioners

Through: Mr Anil Kumar Jangra, Advocate.

versus

THE STATE (GNCT OF DELHI) & ANR

..... Respondents

Through: Ms Richa Kapoor, Addl. Standing
Counsel (Crl.).
SI Yashbir Singh, PS- New
Usmanpur.
Ms Neha Sharma and Ms Pratibha
Shukla, Advocate for R-2.

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 (hereinafter referred to as 'the Code') seeking quashing of FIR No.0390/2013 under

Sections 406/498A/34 IPC registered at Police Station- New Usman Pur, 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 customs on 29.01.2012. A boy child namely Daksh was born out of the said wedlock and is in the care and custody of respondent no.2/complainant (wife) herein. Owing to temperamental and ideological differences between the parties to the marriage, they started living separately since 26.07.2012. On a complaint instituted by respondent no.2 (wife), the subject FIR was registered against the petitioners.

3. Counsel for the parties state that with the aid and assistance of the Mahila Court (N/E), Karkardooma Courts, Delhi, the outstanding matrimonial dispute between the parties to the union has been settled amicably. The salient terms and conditions as enshrined in the joint statement of the parties dated 02.06.2014 recorded before the Mahila Court (N/E), Karkardooma Courts, Delhi, are as follows:-

“i) We are the complainant and the accused respectively in the present FIR. We have settled the matter for a total sum of Rs.6,00,000/- towards full and final settlement of all the

claims arising out of our matrimonial alliance on the following terms and conditions:-

i) Rs. 1,00,000/- shall be paid by the accused to the complainant on 04.07.2014 before the Court itself.

ii) Rs. 1,00,000/- shall be paid by the accused to the complainant at the time of recording statement during the first motion for divorce which shall jointly be filed in July 2014 itself,

iii) Rs. 2,00,000/- shall be paid by the accused to the complainant at the time of recording statement during the second motion for divorce, which shall be filed immediately after completion of six months from the date of the first motion,

iv) Rs. 2,00,000/- shall be paid by the accused to the complainant at the time of recording statement of the parties in the quashing petition before the Hon'ble Delhi High court in respect of the present FIR,

v) the complainant shall withdraw the pending petition under Section 12 D.V. Act, and Section 125 Cr.P.C. immediately after completion of first motion for divorce.

vi) the complainant shall compound the offences under Section 323/341/506 IPC in respect of the pending FIR No.58/14, P.S G.T.B Enclave, Delhi,

vii) The accused shall withdraw the petition filed by him under Section 9 of Hindu Marriage Act, pending before the Ld. ADJ, Aligarh, U.P immediately after completion of first motion for divorce,

viii) That the custody of the minor child of the parties Master Daksh shall permanently remain with the

complainant and the accused shall not file any case for the custody of the said child.”

4. Counsel for the parties state that pursuant to the said settlement between the parties to the union, a sum of Rs.5 lakh has already been received by respondent no.2 (wife). The balance sum of Rs.1 lakh has been brought to the Court in the shape of a Demand Draft dated 01.01.2016 bearing No.445916 drawn on Punjab National Bank, Talaspur Kalan, Aligarh, U.P., in favour of respondent no. 2(wife) herein. The latter acknowledges receipt thereof subject to its encashment.

5. 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 10.04.2015 has already been obtained by the parties from the concerned Family Court, North East District, Vishwas Nagar, Delhi.

6. Respondent No.2/complainant (wife), who is present in Court and has been identified by the IO in the subject FIR, namely, SI Yashbir Singh, PS-New Usmanpur, 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. 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 following cases:

- i) Petition filed by the respondent no.2/complainant (wife) under Section 125 of the Code.
- ii) Petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005 filed by the respondent no.2/complainant (wife).
- iii) FIR No.58/14 under Section 323/341/506 IPC Police Station- G.T.B.Enclave, Delhi.
- iv) Petition under Section 9 of Hindu Marriage Act, filed by the petitioner No.1.

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 10.04.2015; 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.0390/2013 under Sections 406/498A/34 IPC registered at Police Station- New Usman Pur, Delhi, is hereby set aside and

quashed qua the petitioners subject to their depositing a sum of Rs.10,000/- each 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. With the above directions the writ petition is allowed and disposed of accordingly.

MARCH 11, 2016
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SIDDHARTH MRIDUL, J

