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

Date of Decision: 8th March, 2016

+ **W.P.(CRL) 748/2016 and Crl. MA No. 4160/2016**

AWDESH

..... Petitioner

Through

Mr. Ranjan Kumar and Mr. Sumit
Kumar, Advocates along with petitioner

versus

STATE & ANR

..... Respondents

Through

Mr. Ashish Aggarwal, ASC (Crl.) with
Mr. Piyush Singhal, Adv.
SI Shabbir Ahmed, PS Sangam Vihar
Respondent no. 2/Complainant in-person

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J. (ORAL)

CRL.M.A. No. 4160/2016 (Exemption)

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

W.P. (CRL.) 748/2016

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. 457/2013 under Sections 406/498A/34 IPC registered at Police Station- Sangam Vihar, Delhi and the proceedings arising therefrom.

2. The facts in brief are that the petitioner (husband) and respondent No.2/complainant (wife) were married to each other according to Hindu rites and customs on 6th March, 2011. Owing to temperamental and ideological differences between the parties to the marriage, they started living separately since 10th January, 2013. 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 (husband).

3. Counsel for the parties state that with the aid and assistance of Principal Judge, South District, Family Court, Saket Courts, New Delhi, the outstanding matrimonial dispute between the parties to the union has been settled amicably as reflected in the judgment and order dated 8th October, 2015 and the joint statement of the parties to the marriage recorded in this behalf on 6th October, 2015. In the said statement dated 6th October, 2015, both the petitioner (husband) and respondent no. 2(wife) stated as follows:-

“Joint Statement of:-

Smt. Kiran, aged about 21 years, D/o Sh. Murari Lal, R/o E-6/80, Ratiya Marg, Sangam Vihar, New Delhi, petitioner no. 1

Sh. Awdes, aged about 27 years, S/o Sh. Vijay, R/o Village Haspura, Mohalla Purvala, PS Noorpur, Distt. Bijnor, (U.P.), petitioner no. 2

On SA

We got married on 06.03.2011 at Kaniyadan Mahadan (Regd.), Gandhi Harijan, Vidhyala, Dakshin Puri, Dr. Ambedkar Nagar, New Delhi according to Hindu rites and

ceremonies. Proof of marriage – Marriage Certificate is Ex. P1.

First Motion petition bearing HMA No. 1102/14 was presented on 18.11.2014 and has already been allowed vide order dated 08.01.2015. I, petitioner no. 1, have placed on record photocopy of my Aadhar card, in proof of my identity/residence, same is Ex. P2 (OS & R). I, petitioner no.2, have placed on record photocopy of my election identity card, in proof of my identity/residence, same is Ex. P3(OS&R).

After marriage, we both resided together as husband and wife at Delhi. No child was born out of this wedlock. We have been living separately since 10.01.2013 and have not been able to live together since then. We have not cohabited with each other ever since the day of our separation and even after passing of order dated 08.01.2015 by this Court, in the first motion petition bearing HMA No. 1102/14. There is no possibility of our living together again as husband and wife, on account of temperamental differences. Efforts for reconciliation and resolution of differences made by us, family members and well wishers have failed. We have voluntarily decided to dissolve our marriage by mutual consent. Our consent has not been obtained by fraud, force/undue influence or pressure from any corner. There is no collusion between us in filing the present petition.

We have amicably resolved out of court, all our disputes with respect to istridhan, permanent alimony and maintenance (past, present and future) as per the terms and conditions mentioned in the present petition, Ex. PX and in the Settlement Deed, Ex. PY.

As per settlement, petitioner no. 2/husband has agreed to pay a total sum of Rs. 2,00,000/- to petitioner no. 1/wife in full and final settlement of all her claims of istridhan permanent alimony and maintenance (present, past and future). Out of the said amount, a sum of Rs. 75,000/- has already been received by the petitioner no. 2/wife from petitioner no. 1/husband at the time of recording of first

motion statement. Today, a sum of Rs. 65,000/- is received by the petitioner no. 2/wife from petitioner no. 1/husband in cash. It has been agreed that balance amount of Rs. 60,000/- shall be paid by the petitioner no. 1/husband to petitioner no. 2/wife at the time of quashing of FIR bearing no. 457/13, under Sections 498A/406/34 IPC, PS Sangam Vihar before Hon'ble Delhi High Court. With this payment nothing remains due towards petitioner no. 2 from petitioner no. 1.

We both undertake to withdraw all the cases/complaint/petition, if any, and further not to file any case/complaint against each other/respective family members at any point of time in future with regard to this marriage.

We both undertake to abide by the terms and conditions mentioned in the present petition, Ex. PX and in the Settlement Deed, Ex. PY. With this, no claims/disputes of any kind whatsoever are left between both of us against each other. We have made the above statement out of our own free will and without any force, threat, duress, coercion or any kind of pressure from any corner.

Present petition has been signed and verified by both of us and same is supported by our affidavits. Contents of the petition are correct. We pray that our petition may be allowed and our marriage be dissolved by mutual consent.”

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 lakhs 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 before the Principal Judge, South District, Family Court, Saket Courts, New

Delhi, a sum of Rs. 1,40,000/- has already been received by respondent no.2 (wife). The balance sum of Rs. 60,000/- has been brought to the Court in the shape of Demand Draft dated 20th February, 2016 bearing No. 825091 drawn on State Bank of India, District Courts Complex, Saket, Delhi 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 8th October, 2015 has already been obtained by the parties from the concerned Family Court, Saket Courts, New Delhi.

7. Ms. Kiran, respondent No.2/complainant (wife), who is present in Court and has been identified by the Investigating Officer i.e. SI Shabbir Ahmed, Police Station- Sangam Vihar, 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 and respondent no. 2 and resulted in the registration of the subject FIR, has been settled amicably before the Principal Judge, South District, Family Court, Saket Courts, New Delhi on 8th October, 2015 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. 457/2013 under Sections 406/498A/34 IPC registered at Police Station- Sangam Vihar, Delhi and the proceedings arising therefrom are hereby set aside and quashed qua the petitioner subject to his further paying a sum of Rs. 10,000/- to the respondent no.2/complainant (wife) as costs within a period of four weeks from today.

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

MARCH 08, 2016
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SIDDHARTH MRIDUL, J