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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 11.03.2016

W.P.(CRL) 791/2016

RAHUL KAIN & ORS.

..... Petitioners

Through: Mr Narendra Singh, Advocate.

versus

STATE & ANR.

..... Respondents

Through: Ms Srilina Roy, Advocate for
Ms Nandita Rao, Addl. Standing
Counsel (Crl.).

W/ASI Roshni Sharma, PS- CAW
Cell, Nanakpura.

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.31/2014 under Sections 406/498A/34 IPC registered at

Police Station- CAW Cell, Nanakpura, 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 11.05.2013. Owing to temperamental and ideological differences between the parties to the marriage, they started living separately since 28.09.2013. 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 no. 1 (husband) and his family members.

3. Counsel for the parties state that with the aid and assistance of Delhi Mediation Centre, Tis Hazari District Courts, Delhi, the outstanding matrimonial dispute between the parties to the union has been settled amicably by way of a Settlement/Agreement dated 11.04.2014. The salient terms and conditions of the afore-stated settlement are as follows:-

“1) The parties have agreed to dissolve their marriage by seeking decree of divorce by mutual consent in accordance with law. The respondent husband has agreed to pay a sum of Rs. 9,50,000/- by way of cash/demand draft in full and final settlement of all the claims of complainant wife which shall include all her claims, past, present and future arising

out of the marriage with respondent Rahul Kain which shall include permanent alimony, maintenance, Istridhan, jewelery and all other miscellaneous expenses. Apart from this, the respondent husband has also agreed to return the following articles to the complainant on 14.05.2014:-

- a) Passion bike bearing registration no. DL-3S-CJ-90C1
- b) LED Television 32” make Sony (unpacked)
- c) Fridge LG Double Door (packed)\
- d) Washing machine (used) Whirlpool

The complainant Neha has agreed that she will not claim anything whatsoever from the respondent husband, his parents and his relatives.

The payment schedule is as under:-

- a) Rs. One lac shall be paid by way of cash by Sh. Rahul Kain to Ms. Neha at the time of withdrawal of present petition U/s. 12 of Domestic Violence Act from the concerned court.
- b) Sh. Rahul Kain shall pay Rs. 1 Lac to the complainant on 14.5.2014 at the time of return of articles mentioned above against proper receipt. The respondent shall transport the articles at the residence of wife and had over the payment and articles as mentioned above to the complainant, Neha against proper receipt.
- c) Rs. 3,50,000/- shall be paid by respondent Rahul Kain to complainant Neha at the time of recording statement in first motion petition U/s. 13(B)(1) of HMA.

- d) Rs. 3,50,000/- shall be paid by respondent, Rahul Kain to complainant, Neha at the time of recording statement in second motion petition U/s. 13(B)(2) of HMA.
- e) It is agreed that First motion and second motion petitions for divorce by mutual consent shall be got drafted by the complainant, Neha and she will inform the respondent for signing and filing the same. Complainant and respondent will exchange the telephone numbers for better communication.
- f) Rs. 50,000/- will be paid at the time of quashing of FIR. In case need for quashing FIR does not arise, the husband will pay Rs. 50,000/- within two months from the date of dissolution of marriage.
- g) The complainant, Neha ensure that she will make efforts in withdrawing her complaint before CAW Cell and Women Commission in case the complaint has not been converted into a FIR and in case the FIR has been registered, the husband and his family members will not be arrested and the concerned court will observe the conditions set out in this settlement. 498A proceedings will be kept in abeyance (suspended) till the husband secure quashing order U/s. 482 Cr.P.C. from Hon'ble High Court.
- 2) It is settled that after compliance of the terms of the present settlement, no case/dispute shall remain due between the parties and that none of the parties shall file any civil or criminal proceedings against each other in future and that if any other case/petition/complaint etc. between the parties is pending in any Court or Authority , the same shall be withdrawn/got disposed of by the respective party in respect of present disputes.

The parties have settled their dispute out of their own free will, without any fear, force, coercion or undue influence from any side.

It is agreed that the both the parties shall cooperate with each other for the execution of the settlement, with the assistance of their respective counsels.”

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.9,50,000/- 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.9 lakh has already been received by respondent no.2 (wife). The balance sum of Rs.50,000/- has been brought to the Court in the shape of a Demand Draft dated 09.03.2016 bearing No.138292 drawn on Punjab National Bank, Nanakpura, New 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 04.06.2015 has already been obtained by the parties from the concerned Family Court, Tis Hazari, Delhi.

7. Respondent No.2/complainant (wife), who is present in Court and has been identified by the IO in the subject FIR, namely, W/ASI Roshni Sharma, PS- CAW Cell, Nanakpura Police Station- , 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.

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 11.04.2014 without any undue influence, pressure or coercion; as the parties have obtained decree of divorce by mutual consent on 04.06.2015; 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.31/2014 under Sections 406/498A/34 IPC registered at Police Station- CAW Cell, Nanakpura, Delhi is hereby set aside and quashed qua the petitioners subject to their depositing a sum of Rs.40,000/- in 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 Investigating Officer in the subject FIR.

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

11. *Dasti.*

MARCH 11, 2016
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SIDDHARTH MRIDUL, J

