

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 19.04.2016

W.P.(CRL) 916/2016

AVINASH @ SONU & ORS

..... Petitioners

Through: Mr Hirandra Kumar, Advocate.

versus

THE STATE & ORS

..... Respondents

Through: Mr Ashish Aggarwal, Addl.
Standing Counsel (Crl.) with SI
Govind Singh, PS- Uttam
Nagar.

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.404/2014 under Sections 498-A/406/34 IPC registered at Police Station- Uttam Nagar, New Delhi.

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 06.02.2011. However, no child has been born out of the said wedlock. Due to temperamental and ideological differences between the

parties to the marriage, they started living separately since the year 2013. On a complaint instituted by respondent no.2 (wife), the subject FIR was registered against the petitioner-husband and his family members.

3. Counsel for the parties state that with the aid and assistance of the Mediation Centre, Rohini Courts, Delhi, the outstanding matrimonial dispute between the parties to the union has been settled amicably by way of a settlement/agreement dated 11.11.2014. A copy of the said settlement/agreement dated 11.11.2014 is annexed to the present petition at pages 37 to 39 as annexure P-3. The salient terms and conditions of the afore-stated settlement/agreement dated 11.11.2014 are as follows:-

“1)The parties shall get dissolved their marriage by a decree of divorce by mutual consent without leveling allegations and counter-allegations against each other in accordance with law before the Court of competent jurisdiction at Delhi.

2) Petitioner/husband shall pay a total sum of Rs.2,65,000/- (Rupees Two Lac Sixty Five Thousand Only) to the Respondent/wife alongwith articles as per admitted list Annexure ‘A’ towards her full and final satisfaction qua all her claims past, present and future arising out of the marriage which shall include permanent alimony, stridhan, dowry articles, maintenance and all other claims including miscellaneous expenses.

3) The settlement amount of Rs.2,65,000/- (Rupees Two Lac Sixty Five Thousand Only) shall be paid by the petitioner/husband to the respondent/wife, in the following manner:-

i) First installment of Rs.1,05,000/- (Rupees One Lac Five Thousand Only) in cash/DD at the time of

recording statements in First Motion Petition U/s 13B(1) of Hindu Marriage Act Which shall be filed by the parties jointly on or before 15.12.2014. It is agreed that the petitioner/husband shall return the articles to the respondent/wife as per admitted list Annexure 'A' on 10.12.2014 at the agreed place.

ii) Second installment of Rs.80,000/- (Rupees Eighty Thousand Only) in cash/DD at the time of withdrawal of both the connected cases from the concerned court on 15.01.2015.

iii) Third and last installment of Rs.80,000/- (Rupees Eighty Thousand Only) in cash/DD at the time of recording statements in Second Motion Petition U/s. 13B(2) of Hindu Marriage Act, 1955 which shall be filed by the parties jointly at the earliest possible after expiry of stipulated period of six months.

4) Both the parties shall not interfere in the life of each other in future.

5) The petitioner/husband shall withdraw the present case from the Ld. Referral Court on date fixed i.e. 05.12.2014.

6) In terms of the present settlement, there shall remain no case/dispute between the parties qua the marriage of the petitioner and respondent and that none of the parties shall file any civil or criminal proceedings against each other in future qua the same 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."

4. Pursuant to the aforesaid settlement/agreement dated 11.11.2014 the petitioner No.1 has undertaken to pay a total sum of Rs.2,65,000/- to respondent No.2/complainant (wife) towards all her claims *vis-à-vis*

permanent alimony, stridhan, dowry articles, maintenance past, present and future etc. against the petitioners. The said sum of Rs.2,65,000/- has already been received by respondent no.2. It is observed that pursuant to the settlement arrived at between the parties to the union, a decree of divorce by mutual consent dated 17.08.2015 has already been obtained by the parties from the concerned Family Court, Rohini, Delhi.

5. Respondent No.2/complainant (wife), who is present in Court and has been identified by the IO in the subject FIR, namely, SI Govind Singh, PS-Uttam Nagar, 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.

6. 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 the settlement/agreement dated 11.11.2014 without any undue influence, pressure or coercion; as the parties have obtained decree of divorce by mutual consent on 17.08.2015; and the settlement between the parties is lawful, no useful purpose will be served by proceeding with the subject FIR and the proceedings arising therefrom.

7. Resultantly, FIR No.404/2014 under Sections 498-A/406/34 IPC registered at Police Station- Uttam Nagar, New Delhi, is hereby set aside and quashed qua the petitioners subject to their paying a sum of Rs.15,000/- in the aggregate as litigation expenses to the respondent No.2/complainant within a period of two weeks from today. A copy of the receipt thereof shall be provided to the IO in the subject FIR.

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

SIDDHARTH MRIDUL, J

APRIL 19, 2016

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