

#39

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

Date of Decision: 18th March, 2016

+ **W.P.(CRL) 882/2016 and Crl. MA No. 4808/2016**

SANDEEP KUNDU

..... Petitioner

Through

Mr. Parveen Pruthi, Advocate along with
petitioner

versus

THE STATE & ANR

..... Respondents

Through

Ms. Kamna Vohra, ASC (Crl.)
SI Mahendra Pratap, PS Keshav Puram
Mr. Arvind Rana, Adv. for the
Resp. No. 2/complainant along with
Resp. No. 2/Complainant

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J. (ORAL)

CRL.M.A. No. 4808/2016 (Exemption)

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

W.P. (CRL.) 882/2016

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. 153/2013 under Sections 406/498A IPC registered at Police Station- Keshav Puram, 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 29th March, 2012. 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 October, 2012. 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 Delhi Mediation Centre, Rohini Courts, Delhi, the outstanding matrimonial dispute between the parties to the union has been settled amicably as reflected in the order dated 19th August, 2015. The salient terms and conditions of the settlement as enshrined in the order dated 19th August, 2015 are as follows:-

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

2. The respondent/husband shall pay a total sum of Rs. 12,50,000/- (Rupees Twelve Lac Fifty Thousand only) as full and final settlement to the petitioner/wife qua all her claims/maintenance past, present and future arising out of the marriage with respondent which shall include her permanent alimony, istridhan, dowry articles, maintenance, etc.

3. The settlement amount of Rs. 12,50,000/- shall be paid by the respondent/husband to the petitioner/wife by way of cash/DD in three installments in the following manner:-

(i) First installment of Rs. 2,50,000/- (Rupees Two Lac Fifty

Thousand only) 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 within a week from today.

- (ii) Second installment of Rs. 5,00,000/- (Rupees Five Lac only) at the time of recording statements in Second Motion Petition u/s 13B(2) of Hindu Marriage Act which shall be filed by the parties jointly within one month after expiry of statutory period of six months after first motion.
- (iii) Third and last installment of Rs. 5,00,000/- (Rupees Five Lac only) shall be paid at the time of quashing of FIR No. 153/2013, PS Keshav Puram, U/s 498A/406 IPC State vs. Sandeep Kundu & Ors., which shall be moved within one month of Second Motion before the Hon'ble High Court of Delhi. The complainant shall cooperate in quashing of the said FIR.

4. The petitioner/wife shall withdraw her complaint under DV Act from the court concerned on the next date of hearing.”

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. 12.50 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 Delhi Mediation Centre, Rohini Courts, Delhi, a sum of Rs. 7.50 lakh has already been received by respondent no.2 (wife). The balance sum of Rs. 5.00 lakhs has been brought to the Court in the shape of a Demand Draft dated 15.03.2016 bearing No. 133792 drawn on Oriental Bank of Commerce,

0741/Rohtak-Sonepat Road, Delhi, in favour of respondent no. 2(wife) herein (copy of the same has been placed on record). 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 5th March, 2016 has already been obtained by the parties from the concerned Family Court, Rohini Courts, Delhi.

7. Ms. Garima Dalal, respondent No.2/complainant (wife), who is present in Court and has been identified by the Investigating Officer namely SI Mahendra Pratap, Police Station- Keshav Puram, 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 Delhi Mediation Centre, Rohini Courts, Delhi 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. 153/2013 under Sections 406/498A IPC

registered at Police Station- Keshav Puram, Delhi and the proceedings arising therefrom are hereby set aside and quashed qua the petitioner subject to his depositing a sum of Rs. 10,000/- 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. 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, in addition to the disposal of the present writ petition:-

(i) CC No. 146/4/15 titled as Garima Dalal vs. Sandeep Kundu & Ors. under Section 12 of Domestic Violence Act against the petitioner, pending in the Court of Ms. Susheel Bala Dagar, Ld. MM, Rohini Courts, Delhi.

(ii) Bail Application No. 5955/RC titled State vs. Sandeep Kundu, pending in the Court of Sh. Kanwal Jeet Arora, Learned ASJ, Rohini Courts, Delhi.

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

SIDDHARTH MRIDUL, J

MARCH 18, 2016

SD