

#34

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 30.03.2016

W.P.(CRL) 1027/2016

JAGDISH CHANDER & ORS

..... Petitioners

Through: Mr. M.K. Saroja and Mr. Ravi Kant,
Advocates

versus

NCT OF DELHI & ANR

..... Respondents

Through: Ms. Kamna Vohra, ASC (Criminal)
with ASI Surender Singh, PS- Khyala
for R-1
Ms. Anita Verma, Advocate for R-2
along with respondent No.2 in person

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

CRL.M.A.5341/2016 (Exemption)

Exemption granted subject to all just exceptions.

The application is disposed of accordingly.

W.P.(CRL) 1027/2016

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 (Cr.P.C.) seeking quashing of FIR No.28/2014, under Sections 498-A/406/34 IPC, registered at Police Station- Khyala, Delhi and the proceedings arising therefrom.

2. The facts in brief are that on 22.11.2011 the petitioner No.1 married respondent No.2 according to Hindu customs, rites and ceremonies in Delhi. One female child namely, Rishika was born out of the said wedlock, who is in the care and custody of respondent No.2. Owing to ideological and temperamental differences the parties to the marriage have been living separately since 13.07.2013. On a complaint filed by the respondent No.2 (wife) against her husband (petitioner No.1) and his family members, the subject FIR was registered.

3. Eventually, better sense prevailed and the parties have decided to settle all their matrimonial disputes with the assistance of respectable elders and common relatives and it was orally agreed that petitioner No.1 will pay Rs.4,10,000/- in total to respondent No.2 towards past, present and future alimony. Respondent No.2/complainant Mamta has filed an affidavit in

support of the present petition, which is annexed as Annexure P-3 to the following effect:-

“AFFIDAVIT

I, Mamta w/o Jagdish Chander d/o Shri Kailash Chand aged about 27 years, r/o B-220, Raghubir Nagar, Tagore Garden, West, New Delhi-110027 do hereby solemnly affirm and declare as under:-

1. That I am the respondent no.2 in the above noted case therefore I am well conversant with the facts of the case and competent to swear the present affidavit.
2. That I have settled all the disputes with my free will and choice with all the petitioners.
3. That I have received all the considerations as settled between the deponent and petitioner no.1 and the quashing the FIR No.28/2014, u/s 498A/406/34 IPC, P.S. Khyala and consequential proceedings thereto. On account of permanent alimony, value for all the remaining istridhan articles etc. etc., I undertakes that I shall not raise any claim whatsoever in future against the petitioners for any reason whatsoever regarding this marriage etc.
4. That my marriage with the petitioner no.1 has been dissolved by the decree of mutual divorce granted by Sh. Yashwant Singh, Ld. Pincipal Judge, Family Courts, Tis Hazari Court, Delhi. The copy of the decree sheet is already annexed with the petition as Annexure P-2. Now I do not want to proceed any proceeding against all the petitioners as all of my disputes have already been settled.
5. That the contents of accompanying petition have been explained to me by my counsel in

vernacular and the same are true and best of my knowledge.

DEPONENT

VERIFICATION

Verified at Delhi on this 18th day of March, 2016 that the contents of the affidavit are true and correct to my knowledge and nothing material has been concealed therefrom.

DEPONENT”

4. In pursuance to the aforesaid settlement, the entire sum of Rs.4,10,000/- has already been received by the respondent No.2/complainant.

5. Mamta, respondent No.2/complainant, who is present in Court and has been duly identified by IO ASI Surender Singh, Police Station- Khyala, Delhi states that in view of the settlement arrived at between the parties, she is no longer keen to proceed with the subject FIR and the proceedings arising therefrom.

6. In view of the foregoing, since the dispute which resulted in the registration of the subject FIR has already been resolved amicably by the parties without any undue influence, pressure or coercion, no useful purpose will be served by proceeding with the subject FIR and the proceedings arising therefrom.

7. Consequently, FIR No.28/2014, under Sections 498-A/406/34 IPC, registered at Police Station- Khyala, Delhi and the proceedings arising therefrom are hereby set aside and quashed *qua* all the petitioners subject to their depositing a sum of Rs.10,000/- (Rupees Ten Thousand Only) in aggregate with the Victims' Compensation Fund, Government of NCT of Delhi within a period of two weeks from today. The receipt of the said deposit shall be furnished to the concerned IO.

8. The writ petition is allowed and disposed of accordingly.

SIDDHARTH MRIDUL, J

MARCH 30, 2016
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