

#42

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

*Date of Decision: 26<sup>th</sup> April, 2016*

+ **W.P.(CRL) 1249/2016 and Crl. MA No. 6558/2016**

AJEET & ORS.

..... Petitioners

Through

Dr. J.C. Vashista and  
Ms. Rekha Tiwari, Advocates along with  
petitioners

versus

STATE & ANR.

..... Respondents

Through

Mr. Sanjay Lao, ASC (Crl.)  
SI Pawan Dahiya, PS Paharganj  
Mr. Arjit Benjamin, Adv. for R-2 along  
with R-2/complainant

**CORAM:**

**HON'BLE MR. JUSTICE SIDDHARTH MRIDUL**

**SIDDHARTH MRIDUL, J. (ORAL)**

**CRL.M.A. No. 6558/2016 (Exemption)**

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

**W.P. (CRL.) 1249/2016**

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. 384/2014 under Sections 406/498A/34 IPC registered at Police Station- Paharganj, 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 22<sup>nd</sup> January, 2013. Owing to temperamental and ideological differences between the parties to the marriage, they started living separately since 8<sup>th</sup> August, 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 Principal Judge, Family Court, Central District, Tis Hazari Courts, Delhi, the outstanding matrimonial disputes between the parties to the union were settled amicably by way of a Settlement Agreement dated 5<sup>th</sup> September, 2014. The salient terms and conditions of the afore-stated settlement are as follows:-

“2. It is agreed between the parties that husband shall pay to the wife a sum of Rs. 2.5 Lacs (Two Lacs Fifty Thousand Rupees) as full and final settlement with (as per list) stridhan and dowry, maintenance towards past, present and future qua this marriage and nothing remain due qua this marriage) in two instalment.

3. It is agreed between the parties that the husband will pay Rs. 1 lac (Rupees One Lac) to the wife at the time of recording the statement of first motion.

4. It is further agreed between the parties that the husband will pay Rs. 1.5 Lac (Rupees One Lac Fifty Thousand) to the wife at the time of recording of the statement of second motion.

5. It is agreed between the parties that the first motion petition

shall be filed on or before 30.10.2014 and second motion petition shall be filed soon after the completion of the period of six months of the order u/s 13(B)(1) HMA.

6. There is/are N.A. child/children namely N.A. from this wedlock, who is/are living with the N.A. It is agreed among the parties that the custody will be with N.A. The N.A. will/will not have visitation right.

7. It is further agreed between the parties that the petitioner/respondent will withdraw the case which is pending in the Court of Sh. D.S. Punia, Principal Judge, Family Court, Tis Hazari Courts (Central) u/s 125 Cr.P.C.”

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. 2.50 lakhs towards all her claims *vis. a vis.* permanent alimony, dowry articles, maintenance past, present and future etc. against the petitioners.

5. Counsel for the parties further state that pursuant to the said settlement before the Family Court, Tis Hazari Courts, Delhi, the entire sum of Rs. 2.50 lakhs has been received by respondent no.2 (wife). The latter acknowledges receipt thereof.

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 16<sup>th</sup> July, 2015 has already been obtained by the parties from the concerned Family Court, Delhi, a copy of which has been handed over in Court today. The same is taken on record.

7. It is also observed that as a consequence of the settlement arrived at by and between the parties to the marriage, the petition filed by respondent no. 2 (wife) under Section 125 Cr.P.C. against the petitioner no.1 (husband) before the Family Court, Tis Hazari Courts, Delhi has been withdrawn by the respondent no.2/wife.

8. Ms. Laxmi, respondent No.2/complainant (wife), who is present in Court and has been identified by her counsel- Ms. Vandana, Advocate, 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.

9. 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 before the Family Court, Tis Hazari Courts, Delhi on 5<sup>th</sup> September, 2014 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.

10. Resultantly, the FIR No. 384/2014 under Sections 406/498A/34 IPC registered at Police Station- Paharganj, 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/- in aggregate with the Victims' Compensation Fund within a period of four weeks from today. A copy of the receipt thereof shall be provided to the Investigating Officer in the subject FIR namely SI Pawan Dahiya, Police Station- Paharganj, Delhi.

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

**SIDDHARTH MRIDUL, J**

**APRIL 26, 2016**

SD