

#58

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 22.04.2016

W.P.(CRL) 1232/2016

KAMAL & ORS

..... Petitioner

Through: Mr. Sandeep Tyagi, Advocate

versus

THE STATE (GOVT OF NCT OF DELHI) & ANR Respondents

Through: Mr. Ananya Mohan, Advocate for Mr.
Avi Singh, ASC (Criminal) for R-1
Mr. Ajeet K. Bhadauria, Advocate
along with Respondent No.2 in person

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

CRL.M.A.6413/2016 (Exemption)

Exemption granted subject to all just exceptions.

The application is disposed of accordingly.

W.P.(CRL) 1232/2016

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.480/2014, under Sections 498-A/406/34 IPC,

registered at Police Station- Jyoti Nagar, Delhi and the proceedings arising therefrom.

2. The facts in brief are that on 10.12.2012 the petitioner No.1 married respondent No.2 according to Hindu customs, rites and ceremonies in Delhi. No child was born out of the said wedlock. Owing to ideological and temperamental differences the parties to the marriage have been living separately since 11.03.2013. 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 Delhi Mediation Centre, Karkardooma Courts, Delhi and a Memorandum of Understanding dated 01.12.2015 was executed in this behalf which is annexed as Annexure – “B” to the present petition. The salient terms and conditions of the said Memorandum of Understanding dated 01.12.2015 are as follows:-

- “1. That the first party shall pay a sum of Rs.5,25,000/- (Rs. Five Lac Twenty Five Thousand Only) to the second party against her entire claims as full and final settlement includes past, present and future maintenance, in three installments.
2. That it has been mutually agreed that a sum of Rs.5,25,000/- (Rs. Five Lac Twenty Five Thousand only) shall be paid in the following manner as under:-
 - (a) Rs.2,25,000/- (Rs. Two Lac Twenty Five Thousand only) in cash before Hon’ble Additional District Judge/Family Court at the time of

recording of the Joint Statement of First Motion of Divorce by mutual consent and the said joint petition of divorce by mutual consent shall be filed by both the parties in the first week of month of December, 2015. At the time of recording the statement of first motion second party shall also withdraw case under section 125 of Cr.P.C. filed against the first party, same is pending before the Hon'ble Court of Sh. B.R. Kedia, Principal Judge, Family Courts, Shahdara, Delhi.

- (b) Rs.1,50,000/- (Rs. 1 Lac Fifty Thousand only) in cash before the Hon'ble High Court of Delhi at New Delhi at the time of quashing the FIR bearing No.480/14 under Section 498/406/34 IPC, read with 4 of DP Act from PS, Jyoti Nagar and quashing petition shall be filed on or before 10th February, 2016, or earliest possible.
- (c) Rs.1,45,000/- (Rs.1 Lac fourty Five Thousand Only) before the Hon'ble Additional District Judge/Family Court at the time of recording of the joint statement of second motion of divorce by mutual consent and the said joint petition of divorce by mutual consent shall be filed by both the parties in the month of June, 2016 or earliest possible. The party shall inform to each other through their respective counsel or by E-mail, message/telecommunication.

3. That the first party shall return all dowry articles as per list i.e. Annexure A which is duly signed by both the parties to the second party at the time of recording the statement of first motion. The second party shall bring the articles at KKD Court parking and after inspection the same shall be handed over to the second party at her desired place of residence i.e. her parental home. It is pertinent to mention here that the Alto Car (mentioned as article Serial No.41 out of total 42 articles colley) shall not be claimed by the second party from the first party as Alto Car has been deleted from the list of articles by the second party i.e. Annexure A. The article 21 and 22 are collectively mentioned.
4. That both the parties further agrees to withdraw every complaint/cases/notices filed by them against each other in any court of law as well as any competent authority/office. Both the parties further undertake not to file or initiate any proceedings either criminal or civil in any court of law, qua their marriage. That both the parties further undertake to abide by the terms and conditions as contained in the MOU.
5. That if either of the parties fails to discharge its obligations towards the other parties in terms of the aforesaid MOU, then either party who fails to discharge its obligations, the other party shall be entitled for compensation of liquidated a sum of Rs.5,25,000/- (Rs. Five Lac Twenty Five Thousand only) paying by the defaulting party.

6. That the present compromise have been arrived and signed by both the parties without any threat, force, fraud, coercion, pressure or undue influence from any side and at their free will without any collusion.”

4. In pursuance to the aforesaid settlement, a sum of Rs.2,25,000/- has already been received by the respondent No.2/complainant. A further sum of Rs.1,50,000/- has been brought to the Court in cash and has been handed over to respondent no. 2(wife) who acknowledges receipt thereof. The balance sum of Rs.1,50,000/- shall be paid at the time of second motion, which shall be filed on 23.06.2016.

5. Respondent No.2/complainant (wife), who is present in Court and has been identified by the IO in the subject FIR, namely, SI Naveen, Police Station- Jyoti 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 a Memorandum of Understanding dated 01.12.2015 without any undue influence, pressure or coercion; the settlement between the parties is lawful, no useful purpose will be served by proceeding with the subject FIR.

7. Resultantly, the FIR No.480/2014, under Sections 498-A/406/34 IPC, registered at Police Station- Jyoti Nagar, Delhi and the proceedings arising therefrom are hereby set aside and quashed qua the petitioners subject to their depositing a sum of Rs.15,000/- 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.

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

APRIL 22, 2016
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SIDDHARTH MRIDUL, J

