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

*Date of Decision: 28<sup>th</sup> April, 2016*

+ **W.P.(CRL) 1270/2016 and Crl. MA No. 6658/2016**

MUKESH KUMAR GOTHWAL & ORS ..... Petitioners

Through Ms. Manju, Advocate along with  
petitioners

versus

THE STATE & ANR

..... Respondents

Through Mr. Rahul Mehra, Standing Counsel  
(Crl.) with Mr. Jamal Akhtar and Mr.  
Shekhar Budakoti, Advs.  
SI Radhey Shyam, PS CAW Cell,  
Nanakpura  
Mr. Rajesh Kajla, Adv. for R-2 along  
with respondent no. 2

**CORAM:**

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

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

**CRL.M.A. No. 6658/2016 (Exemption)**

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

**W.P. (CRL.) 1270/2016**

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. 41/2014 under Sections 406/498A/34 IPC registered at

Police Station- CAW Cell, Nanakpura, 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 ceremonies on 19.02.2009. A male child, namely, Parv Kumar was born out of the said wedlock and is in the care and custody of respondent no. 2 (wife). Owing to temperamental and ideological differences between the parties to the marriage, they started living separately since 7<sup>th</sup> July, 2009. 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, Patiala House, New Delhi, the outstanding matrimonial dispute between the parties to the union has been settled amicably by way of an order dated 7<sup>th</sup> April, 2015. The salient terms and conditions of the settlement as enshrined in the said order dated 7<sup>th</sup> April, 2015 are as follows:-

“3. Out of the total settlement of Rs. 20,00,000/- today, petitioner no. 2 has paid a sum of Rs. 10,00,000/- (Ten Lakhs) to the petitioner no. 1 vide three DDs bearing no. 367313, 367312 and 367340 drawn on PNB, Tilak Nagar, New Delhi. The photocopies of the said DDs is Ex. PX and a sum of Rs. 5,00,000/- shall be paid by the petitioner no. 2 to the petitioner no. 1 at the time of recording of statement in second motion petition in the court and the remaining amount of Rs. 5,00,000/- shall be paid by the petitioner no. 2 to the petitioner no. 1 at the time of quashing of FIR bearing no.

41/14, PS CAW Cell, Nanakpura, u/s 498A/406/34 IPC before Hon'ble High Court.

4. Both parties have stated that they have voluntarily consented to seek dissolution of their marriage and that there is no force, coercion or undue influence, that they have signed the petition after going through the contents of same. I have heard the parties. I have gone through the contents of the petition as well as joint statement of the parties, recorded separately. I am satisfied that all the ingredients stipulated in Section 13(B)(1) of the Act are satisfied in this case as parties have been living separately for a period of more than one year and they have not been able to live together and they have mutually agreed that their marriage should be dissolved.”

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. 20 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, Patiala House, New Delhi, a sum of Rs. 15 lakhs has already been received by respondent no.2 (wife). The balance sum of Rs. 5 lakhs has been brought to the Court in the shape of Demand Draft dated 23<sup>rd</sup> February, 2016 bearing No. 035613 drawn on Punjab National Bank, Bhera Enclave, Paschim Vihar, New Delhi in favour of respondent no. 2(wife) herein. 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

19<sup>th</sup> October, 2015 has already been obtained by the parties from the concerned Family Court, Patiala House, New Delhi.

7. Ms. Asha Rani, respondent No.2/complainant (wife), who is present in Court and has been duly identified by the Investigating Officer in the subject FIR namely SI Radhey Shyam, Police Station- CAW Cell, Nanakpura, 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 no. 1 and respondent no. 2 and resulted in the registration of the subject FIR, has been settled amicably before the Family Court, Patiala House, New 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. 41/2014 under Sections 406/498A/34 IPC registered at Police Station- CAW Cell, Nanakpura, Delhi and the proceedings arising therefrom are hereby set aside and quashed qua all the petitioners subject to their paying a sum of Rs. 50,000/- (in aggregate) in favour of the minor child- Parv Kumar within a period of four weeks from today. A copy of the receipt

thereof be provided to the Investigating Officer in the subject FIR.

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

**APRIL 28, 2016**  
SD

**SIDDHARTH MRIDUL, J**