

\$~26

* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CRL.M.C. 1660/2016
VIRENDER SINGH & ORS.

Through Mr Pradeep Ahlawat, Adv. alongwith petitioners
in person
versus
THE STATE & ORS.

Through Ms Neelam Sharma, Additional Public Prosecutor
for the State alongwith Sub Inspector Sunny
Kumar Police Station Rani Bagh, Delhi
Mr Gursharan Singh, Adv. for respondent No.2
alongwith respondent no.2 in person

CORAM:
HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER
% 02.05.2016

Crl. MA 7065/2016 (exemption)

Exemption allowed subject to all just exceptions.

The application stands disposed of.

Crl. MC 1660/2016

This is a petition under Section 482 Cr.PC moved by the petitioners for quashing of FIR No.302/2012 registered at Police Station Rani Bagh, Delhi under Sections 406/498A/34 IPC and consequent proceedings emanating therefrom on the ground that the parties have compromised the matter.

It is submitted by counsel for the petitioners that basically it is a matrimonial dispute which was resulted in registration of instant FIR. However, the petitioners and the respondent no.2 have settled all their disputes and claims against each other before Shri Yashwant Kumar, learned Additional Sessions Judge during the bail proceedings of the petitioners on 12.07.2013 which were finally modified and settled as per the terms and conditions mentioned in the Deed of Compromise dated 07.11.2013, copy of the same is annexed to the present petition at pgs. 56 – 59, according to which, all the disputes between the parties were settled for a total sum of Rs.4,90,000 which was to be paid as per the following schedule:

- (i) Rs.1,60,000/- shall be paid by the petitioners at the time of recording of statement in the first motion divorce petition under Section 13(B) (1) of Hindu Marriage Act;
- (ii) Second instalment of Rs.1,60,000/- shall be paid at the time of recording of statement of complainant / wife during second motion petition for divorce by mutual consent under Section 13-B(2) of the Hindu Marriage Act, 1955;
- (iii) The remaining amount of Rs.1,70,000/- shall be paid at the time of quashing of FIR.

It is further submitted that a sum of Rs.3,20,000/- has already been paid to the respondent no.2. The petitioners have paid the balance amount of Rs.1,70,000/- to the complainant by way of demand draft and copy of the demand draft has been placed on record. It is, therefore, prayed that the present FIR be quashed.

The respondent No.2/complainant, who is present in person (duly identified by the Investigating Officer of the case as well as her counsel) submits that she has amicably resolved all disputes with the petitioners voluntarily without there being any threat, coercion or pressure of any sort and in view of the settlement arrived at between the parties. She admits receiving of Rs.3,20,000/- . She further submits that she has received the remaining amount of Rs.1,70,000/- by way of demand draft from the petitioners today in the Court. As such, it is submitted by her that she does not want any action against the petitioner and does not have any objection to quashing of the instant FIR.

Ms Neelam Sharma, Additional Public Prosecutor for the State submits that in view of the settlement arrived at between the parties, she has no objection to quashing of FIR, however, since the State machinery has been set in motion on account of the acts of the petitioners, they be burdened with costs.

Although offence under Section 498A IPC is non-compoundable but in view of law laid down by the Apex Court in *Shadilal & Ors. v Smt Anil & Anr.*, 2005 Matrimonial Law Reporter 171, *Jasmini Vipul Bhatia & Ors. v State of Maharashtra*, 2005 Matrimonial Law Reporter, 558, Section 320 of the Cr.P.C is no bar to the exercise of power of quashing. As such, keeping in view the fact that it is a matrimonial dispute which the parties have amicably resolved, continuation of the criminal proceedings would be a futile exercise and it will be rather in the ends of justice to give quietus to such litigation.

Accordingly, the petition is allowed and the FIR No.302/2012 registered at Police Station Rani Bagh, Delhi under Sections 406/498A/34 IPC and consequent proceedings emanating therefrom are hereby quashed

The petition stands disposed of accordingly.

A copy of this order be given *dasti* to counsel for the petitioners.

SUNITA GUPTA, J

MAY 02, 2016/*rd*