

#39

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 18.05.2016

W.P.(CRL) 1582/2016

GYANENDER SINGH & ORS

..... Petitioners

Through Mr. H B Singh Sylvania with Mr.Praveen
Sylvania, Advocates

versus

THE STATE (NCT OF DELHI) & ANR Respondents

Through Mr. Anup Kumar, Advocate for R-2
ASI Dharambir Singh, PS Nanakpura
Complainant in person.

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

CRL.M.A. No. 8224//2016 (Exemption)

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

W.P.(CRL) 1582/2016

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. 108/2014 under Sections 406/498A/34 IPC registered at Police Station- CAW Nanak Pura 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 11th March, 2012. No child has been born out of the said wedlock. Owing to temperamental and ideological differences between the parties to the marriage, they started living separately since 15th January, 2013. 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 appearing on behalf of the parties state that with the aid and assistance of Mediation Centre, Patiala House Courts, New Delhi, the outstanding matrimonial dispute between the parties to the union has been settled amicably and the factum of the said settlement between the parties to the union is encapsulated in the order dated 06.08.2015 passed by the learned MM, Patiala House Courts, in Complaint Case No. 57/4/14. The salient terms and conditions of the settlement as enshrined in the said order are as follows :-

“Respondent is agreed to pay Rs.9,00,000/- (Rupees Nine Lacs Only) to the petitioner as full and final settlement towards istridhan, past, present and future alimony and maintenance.

Parties have also agreed to go for divorce by mutual consent and shall file petition in this regard within 15 days from today.

The respondent Shri Gyanender Singh shall pay Rs. 3,00,000/- (Rupees Three Lacs) by DD out of Rs. 9,00,000/- to the petitioner at the time of recording of the statement in the first motion of divorce petition by mutual consent.

The petitioner Ms. Sudershan Kain shall withdraw her petition u/s. 9 HMA and u/s. 125 Cr.PC pending in the court of Shri Arun Kumar Arya, Ld. Principal Judge, Family Court, PHC, New Delhi fixed for 13.08.2015.

The petitioner Ms. Sudarshan Kain shall withdraw her petition u/s. 12 DV Act pending in the court of Ms. Snigdha Sarvaria, Ld. MM, PHC, New Delhi fixed for 29.09.2015.

The petitioner Ms. Sudarshan Kain shall also withdraw her complaint/application u/s. 156 (3) Cr.PC pending in the court of Ms. Tyagita Singh, Ld. M, Dwarka Court, New Delhi fixed for 18.08.2015.

The parties shall file petition for second motion for divorce by mutual consent immediately (within 15 days) after expiry of six months from the date of order in the first motion petition.

The respondent Shri Gyanender Singh shall pay further Rs. 3,00,000/- (Rupees Three Lacs) by DD to the respondents at the time of recording of the statement in the second motion of the divorce petition.

It is further agreed that the respondent shall go for quashing proceedings arising out of FIR No. 1058/2014 u/s. 498A/406/34 IPC PS CAW Cell, Nanak Pura, New Delhi registered on the complaint of petitioner Ms. Sudarshan Kain within one month from the date of recording of statement in second motion of divorce.

The petitioner Ms. Sudarshan Kain shall cooperate in quashing of the FIR.

That the remaining amount of Rs. 3,00,000/- (Rupees three lacs) by DD shall be paid by the respondent Shri Gyanender Singh to the respondent Ms. Sudershan Kain at the time of quashing of FIR before the High Court of Delhi.

That it is further agreed by the parties that after the payment, the parties shall not have any claim of any sort against each other or their family members.

That parties shall not file any case against each other or their family members after this settlement.

Parties shall provide copy of the settlement to the CAW Cell, Nanak Pura, New Delhi.”

4. In a nutshell, it is agreed by and between the parties to the union that respondent no. 2 (wife) shall be paid a total sum of Rs. 9 lakhs towards all her claims against the petitioners.

5. Counsel for the petitioners further states that pursuant to the said settlement between the parties to the union, the entire sum of Rs. 6 lakhs has been received by respondent no.2 (wife). The balance of Rs.3,00,000/- has been brought to the Court in the shape of demand draft bearing no. 835293 dated 18.4.2016 drawn on Syndicate Bank, Janakpuri, New Delhi Branch in favour of the respondent No.2/complainant (wife) herein. 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 15th March, 2016 has already been obtained by the parties by the Principal Judge, Family Court, Patiala House Courts, New Delhi.

7. Ms. Sudershan Kain, respondent No.2/complainant (wife), who is present in Court and has been duly identified by the Investigating Officer in the subject FIR, namely, ASI Dharambir Singh, Police Station, CAW Nanadpura, New 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 between the parties 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. 0108/2014 under Sections 406/498A/34 IPC registered at Police Station-CAW Nanadpura, New Delhi and the proceedings arising therefrom are hereby set aside and quashed qua all the petitioners subject to their depositing a sum of Rs. 20,000/- (in aggregate) with the Victims' Compensation Fund 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. It is also observed that as a consequence of the settlement arrived at between the parties to the marriage, a quietus will be applied to the following cases, in addition to the disposal of the present writ petition;

- i) Case under Section 12 DV Act pending in the Court of Ms. Snigdha Sarvaria, Ld. MM, PHC, New Delhi.
- ii) Petition under Section 9 HMA and under Section 125 Cr. PC pending in the Court of Shri Arun Kumar Arya, Ld. Principal Judge, Family Court, PHC, New Delhi.
- iii) Complaints/applications pending under section 156(3) Cr.PC pending in the Court of Ms. Tyagita Singh, Ld. M, Dwarka Court, New Delhi.

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

SIDDHARTH MRIDUL, J

MAY 18, 2016
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