

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 26th May, 2016

W.P.(CRL) 1639/2016

KAVINDER SHARMA

..... Petitioner

Through: Mr Amit Kumar Pandey, Advocate.

versus

RATI SHARMA & ANR

..... Respondents

Through: Ms Kamna Vohra, Addl. Standing
Counsel (Crl.) with SI Niranjan
Kumar, PS- Bhajanpura.

**CORAM:
HON'BLE MR JUSTICE SIDDHARTH MRIDUL**

SIDDHARTH MRIDUL, J (ORAL)

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.236/2013 under Sections 498A/406/34 IPC and Section 4 of the Dowry Prohibition Act, 1961 registered at Police Station- Bhajanpura, Delhi.

2. The facts in brief are that the petitioner (husband) and the respondent No.1/complainant (wife) were married to each other according to Hindu rites and customs on 29.11.2008. A male child, namely, Master Prateek was born out of the said wedlock on 15.07.2012 and is in the care and custody of respondent No.1. Owing to temperamental and ideological differences between the parties to the marriage, they started living separately since 10.12.2012. On a complaint instituted by respondent No.1, the subject FIR was registered against the petitioner.

3. Counsel for the petitioner as well as the respondent No.1, Rati Sharma @ Rati Dixit, who appears in person and has been identified by the IO in the subject FIR, namely, SI Niranjana Kumar, PS- Bhajanpura, state that with the aid and assistance of the Counselling Cell, Family Court, North East District, Vishwas Nagar, Delhi, the parties have arrived at an amicable resolution of all their outstanding matrimonial disputes. The salient terms and conditions of the settlement dated 12.03.2015 as arrived at between the parties before the aforesaid Counselling Cell, are as follows:-

“It is agreed between the parties that the respondent shall pay to the petitioner as sum of Rupees 2,60,000/- as full and final settlement of all the claims of the petitioner herself and her minor child from the said marriage “not legible” her claims towards stridhan, maintenance (paste

present and future) and also the claims towards the maintenance of her child.

It is also agreed between the parties that the quashing of FIR No.236/2013 u/s 406,498,34 and section 3/4 of Dowry prohibition Act PS Bhajanpura filed by the husband and wife shall cooperate in the said proceedings and at that time husband will pay to his wife 100000/- DD in front of the Hon'ble High Court in favour of Rati Dikshit.

It is further agreed between the parties that the husband will pay Rupees 80,000/- to the wife at the time of recording of the statement of first motion.

It is further agreed between the parties the husband will pay Rs.80,000/- to the wife at the time of the recording of the statement of the second motion.

It is agreed between the parties that the petitioner respondent will withdraw the case MT 492/14 which is pending in the court of Shri A.S. Jaychandra Principal Judge Family court Northeast Vishwas Nagar Delhi at the time of recording of the Ist Motion.”

4. In a nutshell, it has been agreed by and between the parties to the union that respondent no.1 (wife) shall be paid a sum of Rs.2,60,000/- towards all her claims *vis. a vis.* permanent alimony, dowry articles, maintenance past, present and future etc. against the petitioner.

5. Counsel for the petitioner as well as the respondent No.1, further state that pursuant to the said settlement between the parties to the union, a sum of

Rs.1,60,000/- has already been received by respondent No.1 as per the terms of the settlement. The balance sum of Rs.1 lakh has been handed over to the respondent No.1 in court today by way of demand drafts bearing Nos.221260, 221261 and 221262 dated 24.05.2016 drawn on UCO Bank, Delhi High Court, Delhi. The respondent No.1 acknowledges receipt of the same subject to its realization.

6. Apart from the above sum of Rs.2,60,000/- the respondent No.1 has also been paid a sum of Rs.1,00,000/- at the time of granting anticipatory bail to the petitioner by this Court, which will enure to the benefit of the minor child Prateek.

7. 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 21.12.2015 has already been obtained by the parties from the concerned Family Court, Vishwas Nagar, Delhi.

8. Respondent No.1 states that in pursuance to the settlement arrived at between the parties, she is no longer keen to proceed with the subject FIR.

9. Since the dispute between the parties which arose out of a matrimonial discord between petitioner and respondent No.1 and resulted in

the registration of the subject FIR, has been settled amicably by way of a settlement without any undue influence, pressure or coercion; as the parties have obtained decree of divorce by mutual consent on 21.12.2015, no useful purpose will be served by proceeding with the subject FIR.

10. Resultantly, the FIR No.236/2013 under Sections 498A/406/34 IPC and Section 4 of the Dowry Prohibition Act, 1961 registered at Police Station- Bhajanpura, Delhi, is hereby set aside and quashed qua the petitioner subject to his paying a sum of Rs.10,000/- to the respondent No.1 for the welfare of the minor child Prateek within a period of four weeks from today. A copy of the receipt thereof shall be provided to the IO in the subject FIR.

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

SIDDHARTH MRIDUL, J

MAY 26, 2016
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