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

Date of Decision: 13th May, 2016

+ **W.P.(CRL) 1497/2016 and Crl. MA No. 7827/2016**

MOHIT GUPTA & ORS Petitioners
Through Ms. Sangeeta Jain, Advocate
versus

STATE (NCT OF DELHI) & ANR Respondents
Through Mr. Rajesh Mahajan, ASC (Crl.) with
Ms. Parul Jamwal, Advocate
SI Raman Pratap, PS CAW Cell
Mr. Maanav Kumar, Adv. for R-2
along with respondent no. 2

CORAM:
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J. (ORAL)

CRL.M.A. No. 7827/2016 (Exemption)

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

W.P. (CRL.) 1497/2016

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. 137/2013 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 27th February, 2002. One daughter namely Vaasvi Gupta and one son namely Neel Narain Gupta have been born out of the said wedlock and are presently, 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 5th July, 2012. 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 Delhi High Court Mediation and Conciliation Centre, New Delhi, the outstanding matrimonial dispute between the parties to the union has been settled amicably by way of a Settlement Agreement dated 9th September, 2015. The salient terms and conditions of the settlement as contained in the said Settlement Agreement are as follows:-

“i. Both the parties agree to get their marriage dissolved by obtaining a decree of divorce by filing joint petition(s) under Section 13B of the Hindu Marriage Act.

ii. Both the parties agree to file the first joint petition under Section 13(B)(1) of Hindu Marriage Act within 15 days from the execution of the present Settlement Agreement before the Family Court, Patiala House Courts, New Delhi.

iii. Both the parties agree to file the second joint petition under Section 13(B)(2) of the Hindu Marriage Act within 15 days from the expiry of statutory period of six months from the date of grant of first motion petition before the Family Court, Patiala House Courts, New Delhi.

iv. It is agreed between the parties that the first party shall hand over two cheques each of Rs. 25,00,000/- (Rupees Twenty Five Lakhs only) in the name of minor children Vasvi and Neel at the time of first motion petition. It is further agreed between the parties that the second party undertakes to get the two FDRs made, each of Rs. 25,00,000/- from the above amount one in the name of Vasvi Gupta and other in the name of Neel Narain Gupta within a period of 15 days from the recording of the statement of the parties during the first motion petition and shall hand over the photocopies of the said FDRs to the first party immediately after the FDRs are made. It is agreed between the parties that interest accruing on the said FDRs may be utilized by the second party for the upbringing, education and to meet day to day expenses of the children. The first party ensures that the cheques will be honoured on presentation for encashment by the second party.

v. That the first party has paid the school fee of both the children i.e. Vasvi and Neel till November, 2015 which was

due in August, 2015. The first party undertakes to continue paying the monthly amount being paid by the first party presently till October, 2015. It is agreed between the parties that the first party shall not be subsequently paying the school fee/s or other educational expenses on payment of the agreed amount in terms of the present Settlement Agreement. Over and above this, the first party shall have the prerogative to give any amount to the children.

vi. It is agreed between the parties that the above said FDRs of Rs. 25,00,000/- each both in the names of Vasvi and Neel, shall be kept alive till they attain the age of majority. On attaining the age of majority, the FDRs shall be handed over to the children and they shall be free to use the same as they feel appropriate to which none of the parties will have any objection.

vii. It is agreed and undertaken by the first party that he will hand over an additional demand draft of Rs. 20,00,000/- in favour of second party at the time of recording of the statement of the parties during the second motion petition for divorce by mutual consent.

viii. It is agreed between the parties that on the payments as mentioned hereinabove in the foregoing paras in the names of children as well as in the name of second party all claims of the second party as well as both the children towards their maintenance (past, present and future), permanent alimony and stridhan of the second party against the first party and any other claims whatsoever shall stand satisfied and the second party and the children shall not claim anything from

the first party and/or his family due to his marriage with the second party.

OTHER TERMS:-

It is agreed between the parties that in case of any medical emergency requiring hospitalization of the children Vasvi and Neel, the second party shall immediately inform the first party.

(i) Presently the children are covered for the risk of Rs. 3,00,000/- (Rupees Three Lakhs only) each under New India Assurance Company Limited, Dwarka, New Delhi vide policy no. 31150334142500001161 valid from 11.01.2015 to 10.01.2016. It is agreed by the first party to continue to have medical insurance(s) for both the children under his own policy till the children attain the age of majority.

(ii) It is agreed between the parties that the first party shall disclose the details of savings accounts and PPF of the children currently being operated and under the care of first party along with the disclosure of the balance in the said accounts before the filing of the joint petition for second motion for divorce by mutual consent. The same should be handed over to the children after they attain the age of majority. It is agreed by the first party to hand over the passbook of PPF accounts of minor children to the second party at the time of recording of statement during second motion petition of divorce by mutual consent.

(iii) It is agreed between the parties that the second party shall inform the first party by email and phone about 5-7 days in advance wherever she takes the children out of Delhi or India with the travel plans and dates and it affects the children's visitation to the first party and/or his family thus enabling him to meet them before their departure.

(iv) The second party agrees to inform the first party by email and phone about 5-7 days in advance every time the children go out of India without second party and further about their coming back to Delhi.

(v) The first party agrees to inform the second party 5-7 days in advance if he shall not be picking up the children qua his visitation due to any of his travel plans or otherwise so that their schedule can be planned accordingly.

(vi) It is agreed between the parties that the first party shall have 'No Objection' to the grant of visa, renewal of passports, travels etc. in the name of children by the authorities/concerned embassy for their visits outside India and the present 'No Objection' shall be sufficient to the said effect. The first party further agrees that in case any department/authority/Embassy needs No Objection or any other document in furtherance of this, then the first party shall cooperate and give the required documents, duly signed by him, to ensure the implementation of the proposed plans of visit/s of the children within 15 days of the said intimation to the first party. It is agreed by the first party that in case he does not respond to the said intimation within the stipulated time then after the expiry of such time, it shall be presumed that a 'No Objection' from his side has been given.

(vii) The first party undertakes and agrees to hand over the original social security card issued by the US Government of both the children to the second party, at the time of filing of the second motion of their divorce proceedings. The second party undertakes and agrees to hand over the colour copies of the birth certificate and passport of both the children to the first party.

(viii) The parties agree that the first party shall have accessibility to communicate with the children and shall be free to phone/email/skype at reasonable times.

(ix) The first party agrees and undertakes to gift Honda City Car bearing No. DL3C AK 7389, along with registration certificate i.e. RC, title and insurance to be transferred in the name of the second party in proper working condition to the second party after 10 days from the recording of the statement of the parties during the first motion petition for divorce by mutual consent. The first party undertakes to sign all the papers for transfer of the said Honda City Car in the name of the second party. The second party undertakes to get the said car transferred in her name within 30 days after getting the delivery of the said car from the first party against receipt. It is further agreed between the parties that the first party shall not be reasonable and/or liable in any manner whatsoever for any accidental claims or any other criminal or civil action/liability against the said car after the delivery of the said car to the second party. The first party undertakes and agrees to extend his full cooperation in completing the transfer of the said car in the name of the second party.”

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. 50 lakhs towards all the claims of the children namely Vaasvi Gupta and Neel Narain Gupta and 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. In addition

to this, the petitioner no. 1 (husband) shall also make the payments of Rs. 4,26,000/- and Rs. 1,50,000/- to the respondent no. 2 (wife) against return of loan amount given by respondent no. 2 (wife) to the company AM Texpressions Pvt. Ltd. as well as for the transfer of shares by respondent no. 2 (wife) to the petitioner no. 1 (husband).

5. Counsel for the parties further state that pursuant to the said settlement before the Delhi High Court Mediation and Conciliation Centre, New Delhi, the entire sum of Rs. 70 lakhs (Rs. 50 lakhs for children and Rs. 20 lakhs for respondent no. 2/wife) has been received by respondent no.2 (wife). Further, the payments of Rs. 4,26,000/- and Rs. 1,50,000/-, as afore-stated, have also been made by petitioner no. 1 (husband) to the respondent no. 2 (wife). 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 19th April, 2016 has already been obtained by the parties from the concerned Family Court, Patiala House Courts, New Delhi.

7. Ms. Neha Gupta, respondent No.2/complainant (wife), who is present in Court and has been duly identified by her counsel- Mr. Maanav Kumar, Advocate as well as the Investigating Officer in the subject FIR namely SI

Raman Pratap, 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 Delhi High Court Mediation and Conciliation Centre, 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. 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 filed by the parties *inter se* before various Courts in Delhi, in addition to the disposal of the present writ petition:-

1. Petition under the provisions of Domestic Violence Act filed by the respondent no. 2(wife) pending before Saket Courts, New Delhi.

2. Suit for partition filed by respondent no. 2(wife) for and on behalf of her minor children namely Vasvi and Neel pending before this Court.

3. Divorce petition filed by the respondent no. 2(wife) against the petitioner no. 1 (husband) pending before Family Court, Patiala House Courts, New Delhi.

4. Petition under the Guardianship Act for custody of the minor children filed by the petitioner no. 1 (husband) pending before the District Judge, Saket Courts, New Delhi.

5. Matrimonial Appeal (FC) No. 120/2014 filed by the petitioner no. 1 (husband) pending before this Court.

10. Resultantly, the FIR No. 137/2013 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 each of them paying a sum of Rs. 15,000/- each with the Victims' Compensation Fund within a period of two weeks from today. The copy of the receipt thereof 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 13, 2016
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