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

Date of Decision: 13th May, 2016

+ **W.P.(CRL) 1505/2016**

MOHD. KAUSHER PARVEZ

..... Petitioner

Through Mr. S.S. Haider, Advocate along with
petitioner

versus

THE STATE (NCT OF DELHI) & ANR

..... Respondents

Through Mr. Ashish Aggarwal, ASC (Crl.) with
Mr. Piyush Singhal, Advocate
SI Sanjay Kumar, PS Dabri
Ms. Shadna Rani, Advocate for R-2
along with respondent no. 2

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. 102/2015 under Sections 406/498A/34 IPC registered at Police Station- Dabri, 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 Muslim rites and customs on 22nd April, 2013. Owing to temperamental and ideological differences between the parties to the marriage, they started living separately

since 29th June, 2014. No child has been born out of the said wedlock. On a complaint instituted by respondent no.2/complainant (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 intervention of family members and well wishers of the parties, the outstanding matrimonial dispute between the parties to the union has been settled amicably by way of a Memorandum of Understanding (MOU)/Settlement Deed dated 9th October, 2015. The salient terms and conditions of the settlement as contained in the said MOU/Settlement Deed are as follows:-

“1. That both the parties decided to dissolve the marriage by the decree of mutual consent at the earliest.

2. That the first party shall pay Rs. 5,00,000/- (Rupees five lacs only) in total to the second party including all her claims past, present and future, maintenance, permanent alimony, along with jewellery i.e. (i) one diamond ring (gents) with 9 stone; (ii) one gold necklace along with gold earrings; (iii) one pair silver payal; (iv) two small gold ear pin; (v) one silver glass; and (vi) one silver pen.

3. That it has also been agreed that Rs. 1,50,000/- (Rupees One lac and fifty thousand only) by way of demand draft shall be paid by the first party to the second party on 2.11.2015 along with the above said jewellery articles in the Hon’ble Court of Ms. Charu Gupta, MM, Dwarka Courts, New Delhi to withdraw the case titled as “Shama Parveen vs. Md. Kausher Parwez and Ors.” and the second party after receiving Rs. 1,50,000/- shall withdraw the case filed under Section 12 D.V. Act.

4. That the first party shall pay the second instalment of Rs. 1,50,000/- by way of demand draft to the second party on

28.01.2016 in the Hon'ble Court of Shri Prem Kumar Barthwal, Addl. Principal Judge, Family Court, Dwarka Courts, New Delhi to withdraw the case titled as "Shama Parveen vs. Md. Kausher Parwez and Ors." and the second party after receiving Rs. 1,50,000/- shall withdraw the case filed under Section 125 Cr.PC.

5. That the first party shall make the balance amount of Rs. 2,00,000/- (Rupees Two lac only) by way of demand draft to the second party at the time of recording of statement of both the parties for quashing of FIR bearing no. 102/2015 u/s 498A/406/34 IPC PS Dabri, New Delhi before the Hon'ble High Court of Delhi in the first week of May, 2016 and the second party shall cooperate for the same and all the expenses including cost/fine shall be paid by the first party.

6. That it is further agreed between the parties that after quashing of FIR, the first party shall pronounce divorce (talak-talak-talak) before the Hon'ble High Court of Delhi in the presence of the family members of both side and Maulana."

4. In a nutshell, it is agreed by and between the parties to the union that respondent no. 2/complainant (wife) shall be paid a total sum of Rs. 5 lakhs towards all her claims against the petitioners.

5. Counsel for the parties further state that pursuant to the said settlement between the parties to the union, the sum of Rs. 3 lakh has already been received by respondent no.2/complainant (wife). The balance sum of Rs. 2 lakh has been handed over by way of a demand draft bearing No. 501948 dated 03.05.2016 drawn on ICICI Bank, Bhikaji Branch, New Delhi, in favour of Ms. Shama Parveen, respondent no.2/complainant (wife) in Court today. The respondent no.2 acknowledges receipt thereof subject to its encashment.

6. Counsel for the parties also state that pursuant to the settlement arrived at between the parties to the union, *talaq* as per Muslim Personal Law has been duly pronounced thrice by the petitioner no. 1 (husband) upon respondent no. 2/complainant (wife) on 9th May, 2016.

7. Ms. Shama Parveen, the respondent No.2/complainant (wife), who is present in Court and has been identified by her counsel, Ms. Shadna Rani, Advocate as well as the Investigating Officer in the subject FIR, namely, SI Sanjay Kumar, Police Station- Dabri, 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 by way of a Settlement Deed dated 9th October, 2015, without any undue influence, pressure or coercion; and 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. 102/2015 under Sections 406/498A/34 IPC registered at Police Station- Dabri, Delhi and the proceedings arising therefrom are hereby set aside and quashed qua all the petitioners subject to their depositing a sum of Rs.10,000/- in aggregate with the Victims' Compensation

Fund within a period of two weeks from today. A copy of the receipt thereof shall 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 case filed by the respondent no.2/complainant (wife) under Section 12 of the DV Act, 2005, in addition to the disposal of the present writ petition.

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

SIDDHARTH MRIDUL, J

MAY 13, 2016
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