

#34

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 18.05.2016

+ **W.P.(CRL) 1576/2016 and Crl. MA No. 8176/2016**

CHANDER BHAN & ORS

..... Petitioners

Through

Mr. Surender Kumar, Advocate along
with petitioners

versus

THE STATE (NCT OF DELHI) & ANR Respondents

Through

Mr. Rajesh Mahajan, ASC (Crl.) with
Ms. Parul Jamwal, Advocate
ASI Gyan Amba, PS Kalyan Puri
Mr. M.U. Haq, Adv. for Resp. No. 2
along with respondent no. 2

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

Crl. MA No. 8176/2016 (Exemption)

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

W.P.(CRL) 1576/2016

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. 286/2015, under Sections 498A/406/34 IPC registered at Police Station- Kalyan Puri, 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 12th May, 2013. 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 August, 2013. 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 aid and assistance of Delhi Mediation Centre, Karkardooma Courts, Delhi, the outstanding matrimonial dispute between the parties to the union has been settled amicably and the factum of settlement has been recorded in the order dated 29th September, 2015. The salient terms and conditions of the settlement as enshrined in the said order are as follows:-

“1. It is agreed between the parties that Ms. Pooja and Shri Chander Bhan shall get their marriage dissolved by obtaining a decree of divorce by way of mutual consent.

2. It is agreed between the parties that husband Sh. Chander Bhan shall give Rs. 2,40,000/- (Rupees Two lac and forty thousand only) to wife Ms. Pooja towards full and final settlement of all her claims qua stridhan, maintenance (present, past and future), permanent alimony etc. The payment of the settled amount shall be made by husband Sh. Chander Bhan in four installments.

3. It is agreed between the parties that first installment of Rs. 50,000/- (Rupees Fifty Thousand only) shall be paid by Sh. Chander Bhan to Ms. Pooja today in the court concerned by way of a DD in the name of Ms. Pooja.

4. It is agreed between the parties that the petition for first motion for divorce by mutual consent shall be filed by the parties within ten days from today.

5. It is agreed between the parties that the payment of second installment of Rs. 50,000/- (Rupees Fifty Thousand only) shall be made by Sh. Chander Bhan to Ms. Pooja by way of cash/DD in the court concerned at the time of recording statement of the parties in first motion for divorce by mutual consent.

6. It is agreed between the parties that petition for second motion for divorce by mutual consent shall be filed by the parties within 15 days after expiry of statutory period as per law.

7. It is agreed between the parties that the payment of third installment of Rs. 1,00,000/- (Rupees One lac only) shall be made by Sh. Chander Bhan to Ms. Pooja by way of cash/DD in the court concerned at the time of recording statement of the parties in second motion.

8. It is agreed between the parties that the complainant shall withdraw the present matter as well as her petition u/section 125 Cr.PC. from the court concerned after recording statement of the parties in first motion for divorce by mutual consent.

9. It is agreed between the parties that respondent shall move petition for quashing of FIR No. 286/15, u/s 498A/406/34 IPC PS Kalyan Puri before the Hon'ble High Court of Delhi within 15 days after recording statement of parties in second motion and respondent shall pay fourth installment of Rs. 40,000/- (Rupees forty thousand only) to the complainant by way of cash/DD at the time of quashing of the present FIR.”

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. 2,40,000/- towards all her claims against the petitioners.

5. Counsel for the parties further state that pursuant to the said settlement, a sum of Rs. 2 lakhs has already been received by respondent no.2/complainant (wife). The balance sum of Rs. 40,000/- has been brought to the Court in the shape of Demand Draft dated 26th April, 2016 bearing No. 706177 drawn on State Bank of India, Dwarka, New Delhi Branch in favour of respondent no. 2/complainant (wife) herein. The latter acknowledges receipt thereof subject to its encashment.

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, District East, Vishwas Nagar, Delhi.

7. Ms. Pooja, 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 Gyan Amba, Police Station- Kalyan Puri, 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. 286/2015, under Sections 406/498A/34 IPC registered at Police Station- Kalyan Puri, Delhi and the proceedings arising

therefrom are hereby set aside and quashed qua all the petitioners subject to their paying a sum of Rs.10,000/- in the aggregate to the respondent no.2/complainant (wife) as costs.

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 under Section 12 of the DV Act, 2005 as well as petition under Section 125 Cr.P.C. filed by the respondent no.2/complainant (wife) against the petitioners, in addition to the disposal of the present writ petition.

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

MAY 18, 2016
sd

SIDDHARTH MRIDUL, J