

#38

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 27.05.2016

W.P.(CRL) 1679/2016

PIYUSH GAUTAM & ORS

..... Petitioners

Through: Mr. Vikas Nagwan, Advocate

versus

THE STATE & ANR

..... Respondents

Through: Mr. Ankit Gulia, Advocate for Mr.
R.S. Kundu, ASC (Criminal) with SI
Radhey Shyam, PS- CAW Cell,
Nanak Pura for R-1
Mr. Mohd. Anas, Advocate with Mr.
Pranay Sharma, Advocate for R-2

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

CRL.M.A.8801/2016 (Exemption)

Exemption granted subject to all just exceptions.

The application is disposed of accordingly.

W.P.(CRL) 1679/2016

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 (Cr.P.C.) seeking quashing of FIR No.51/2015, under Sections 498A/406/34 IPC,

registered at Police Station- CAW Cell, 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 31.01.2013. However, no child has been born out of the said wedlock. Due to temperamental and ideological differences between the parties to the marriage, they started living separately since 21.12.2013. On a complaint instituted by respondent No.2/complainant (wife), the subject FIR was registered against the petitioner No.1 and his family members, who are arrayed as petitioner Nos.2 to 5 in the present petition.

3. Counsel appearing on behalf of the parties state that the outstanding matrimonial dispute between the parties to the union has been settled amicably with the assistance of Mediation Centre, Dwarka Courts, Delhi. The settlement agreement dated 30.06.2015 is annexed to this petition as Annexure P-3. The salient terms of the amicable settlement as enshrined in order dated 30.06.2015 of the Mediation Centre, Dwarka Courts, Delhi are as follows:-

“30/06/2015

Present : Smt. Shakti Gautam, complainant/wife in person with her sister Ms. Shilpi along with Ld. Counsel Sh. Mohd. Anas.

Sh. Piyush Gautam, respondent/husband in person with his father Sh. Mahender Gautam, along with Ld. Counsel Sh. Yogesh Aggarwal.

The present case is received for mediation from the Hon'ble Court of Ms. Mamta Tayal, Ld. ASJ/Vacation Judge, Dwarka Courts, New Delhi.

Process of Mediation explained to the parties. Joint and separate sessions held.

Brief facts of the case are that the marriage between the parties was solemnized on 31.01.2013. Due to temperamental differences and certain other reasons, they have been living separately from each other since 21.12.2013. There is no issue out of the said marriage.

After mutual discussions, both the abovesaid parties have amicably and without any force or coercion, resolved their disputes in respect of the present case as well as above-mentioned connected cases on the following terms and conditions:-

1. That both the abovesaid parties have settled all their claims/disputes with regard to their marriage. It has been agreed between the parties that they shall seek divorce by mutual consent.
2. That the respondent/husband has agreed to pay a sum of Rs.9,25,000/- (Rupees nine lakhs twenty five thousand only), towards full and final settlement of all claims of complainant/wife regarding dowry articles, stridhan, permanent alimony and maintenance (past, present and future), which the complainant/wife has agreed to accept as such.
3. It has been agreed between the parties that the settled sum of Rs.9,25,000/- (Rupees nine lakhs twenty five thousand only) shall be paid by the respondent/husband to the complainant/wife in three installments by way of cash/DD as per the schedule:
 - (i) First installment of Rs.2,25,000/- shall be paid at the time of recording of statement during first motion petition for divorce by

mutual consent u/s. 13-B(1) of the Hindu Marriage Act, 1955, which shall be filed on or before 25.07.2015, but, after withdrawal of the above-mentioned connected u/s. 9 of HMA.

- (ii) Second installment of Rs.4,00,000/- shall be paid at the time of recording of statement during second motion petition for divorce by mutual consent u/s. 13-B(2) of the Hindu Marriage Act, 1955, which shall be filed within three weeks of expiry of minimum statutory period after first motion u/s. 13-B(2) Hindu Marriage Act, 1955, as per law.
 - (iii) Third/last installment of Rs.3,00,000/- shall be paid at the time of recording of statement of complainant/wife in proceedings for quashing of FIR No.51/15, under Sections 406/498A/34 IPC, PS CAW Cell, Nanak Pura, New Delhi, before the Hon'ble High Court of Delhi.
4. It has been agreed between the parties that petition for quashing of FIR shall be filed by the respondent/husband within two months from the passing of decree of divorce and the complainant/wife shall cooperate in the said proceedings.
 5. That subject to fulfillment of terms and conditions of this settlement, the complainant/wife shall withdraw the above-mentioned connected case under DV Act, mentioned above at sl. No.2 within a week after recording of statement during second motion petition for divorce by mutual consent u/s. 13-B(2) Hindu Marriage Act, 1955.
 6. That the complainant/wife shall withdraw/request the concerned court for disposal of the connected case u/s. 125 Cr.P.C. as mentioned above at sl. No.1, on or before the date fixed i.e. 23.07.2015,

subject to fulfillment of terms and conditions of this settlement.

7. That the respondent/husband shall withdraw the abovementioned connected case u/sec. 9 of HMA mentioned at sl. No.3 on the date fixed i.e. 23.07.2015.
8. It has been agreed between the parties hereto that they shall make appropriate statements before the concerned courts/authorities and shall cooperate with each other in all the legal proceedings.
9. It has been agreed between the parties hereto that they shall not file any claim/case against each other or family members related to their marriage.
10. That both the parties hereto shall bear their respective cost of litigation.
11. By signing this settlement, the parties hereto state that they have no further claims or demands against each other with respect to their marriage and all the disputes and differences in this regard have been amicably settled by the parties hereto during the process of mediation and that they shall not initiate any litigation in future against each other in respect of their marriage, subject to fulfillment of terms of this settlement.
12. That the abovesaid parties shall be bound by the terms and conditions as mentioned above and shall appear before the Hon'ble Referral Court on the date fixed i.e. 09.07.2015 to make a statement in terms of this settlement:
13. In case any of the parties hereto does not abide by the terms and conditions of this settlement, other party shall be at liberty to take appropriate action as per law.
14. That the contents of this settlement have been explained to the parties in vernacular and they have understood the same. Both the abovesaid parties undertake that they have signed the above settlement after going through and understanding

the contents and they have settled the dispute between themselves of their own will and without any force, pressure or coercion from any quarter.

4. In a nutshell, it has been agreed by and between the parties to the union that respondent No.2/complainant (wife) shall be paid a sum of Rs.9,25,000/- (Rupees Nine Lakhs Twenty Five Thousand only), towards all her claims qua dowry articles, stridhan, permanent alimony and maintenance (past, present and future), against the petitioners.

5. Counsel for the parties further state that pursuant to the afore-stated settlement between the parties to the union, a sum of Rs.6,25,000/- (Rupees Six Lakhs Twenty Five Thousand only) has already been received by respondent no.2/complainant (wife). The balance sum of Rs.3,00,000/- (Rupees Three Lakhs only) has been brought to the Court in the shape of a demand draft bearing No.501809 dated 02.04.2016, drawn on ICICI Bank, Rohini in favour of the respondent No.2/complainant (wife) and has been handed over to her. The latter acknowledges receipt thereof subject to 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 01.02.2016 has already been obtained by the parties from the court of Principal Judge, Family Court, Central District, Tis Hazari Courts, Delhi.

7. Respondent No.2/complainant (wife), who is present in Court and has been duly identified by the IO in the subject FIR, namely, SI Radhey Shyam,

Police Station- CAW Cell, Nanak Pura, 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 arising therefrom.

8. Since the dispute between the parties, which arose out of a matrimonial discord between petitioner No.1 and respondent No.2/complainant (wife) and resulted in the registration of the subject FIR, has been settled amicably by way of a Settlement/Agreement dated 30.06.2015, without any undue influence, pressure or coercion, no useful purpose will be served by proceeding with the subject FIR and the proceedings arising therefrom.

9. Resultantly, the FIR No.51/2015, under Sections 498A/406/34 IPC, registered at Police Station- CAW Cell, Nanak Pura, Delhi and the proceedings arising therefrom are hereby set aside and quashed qua all the five petitioners subject to their depositing a sum of Rs.5,000/- (Rupees Five Thousand only) each with the Victims' Compensation Fund within a period of four weeks from today. A copy of the receipt thereof shall be provided to the IO in the subject FIR.

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

SIDDHARTH MRIDUL, J

MAY 27, 2016

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