

IN THE HIGH COURT OF DELHI AT NEW DELHI*Date of Decision: 20th May, 2016***W.P.(CRL) 1595/2016 & CRL.M.A. 8280/2016****SANTOSH KUMAR LOBANIYA**

..... Petitioner

Through: Mr Vishal Yadav, Advocate.

versus

STATE (NCT OF DELHI) & ANR

..... Respondents

Through: Mr Ashish Aggarwal, Addl. Standing
Counsel with Mr Piyush Singhal,
Advocate for State with SI Mohd. Faizan
Ghani, PS- Ghazipur.
Respondent No.2 in person.**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.10/2015 under Sections 406/498A IPC registered at Police Station- Ghazipur, Delhi.

2. The facts in brief are that the petitioner and respondent No.2/complainant (wife) were married to each other according to Hindu rites and ceremonies on 24.06.2012. 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 13.11.2012. On a complaint instituted by respondent no.2 (wife), the subject FIR was registered against the petitioner.

3. Counsel for the parties state that with the aid and assistance of the Delhi Mediation Centre, Karkardooma Courts, Delhi, the outstanding matrimonial dispute between the parties to the union has been settled amicably by way of a settlement dated 07.03.2015. The salient terms and conditions of the settlement dated 14.10.2015 arrived at before the Mediation Centre, Karkardooma Courts, Delhi, are as follows:-

1. It has been agreed between the parties that they shall take divorce by way of mutual consent.
2. It has been further agreed between the parties that the respondent no.1/husband Sh. Santosh Kumar Lobaniya shall pay a total sum of Rs. 3,45,000/- (Rs. Three lac and forty five thousand only) to the complainant/wife Ms. Sarita towards full and final settlement of all her claims arising out of their marriage which includes maintenance (present, past and future), permanent alimony, dowry articles, istridhan etc.
3. It has been further agreed between the parties that the respondent no.1/husband shall pay the above settled amount to the complainant/wife, in the following manner:-
 - (a) Rs.45,000/- by way of cash/demand draft at the time of withdrawal of petition U/s 125 Cr.P.C. which is likely to be listed on 12/05/15. On the same day, the respondent no.1/husband shall also return the admitted articles a per list annexed herewith as Annexure-A which is signed by both the parties, to the complainant/wife. Similarly, the

complainant/wife shall also return the admitted articles as per Annexure-A to the respondent no.1/husband.

(b) Rs. 1,00,000/- by way of cash/demand draft at the time of recording of the statements of the parties in the first motion petition which shall be filed by the parties within 15 days from today.

(c) Rs. 1,00,000/- by way of cash/demand draft at the time of recording of the statements of the parties in the second motion. The second motion petition shall be filed by the parties within 15 days after expiry of statutory period of six months.

(d) Rs. 1,00,000/- by way of demand draft before the Hon'ble High Court of Delhi at the time of quashing of FIR No.10/15, P.S. Gazipur U/s 498A/406 IPC. The respondent no.1/husband shall file petition for quashing of this FIR within two months after obtaining decree of divorce by way of mutual consent. The complainant/wife Ms. Saritia undertakes to cooperate with the respondent no.1/husband in quashing of this FIR.

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.3,45,000/- towards all her claims *vis. a vis.* permanent alimony, dowry articles, maintenance past, present and future etc. against the petitioner.

5. Counsel for the parties further state that pursuant to the said settlement, a sum of Rs.2,45,000/- has already been received by respondent no.2 (wife). The balance sum of Rs.1 lakh has been brought to the Court in the shape of Demand Draft dated 16.05.2016 bearing No.208577 drawn on State Bank of India, Lal

Kuan, Ghaziabad, in favour of respondent no. 2(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 05.02.2016 has already been obtained by the parties from the concerned Principal Judge, East District Family Court, Vishwas Nagar, Delhi.

7. The respondent No.2/complainant (wife), who is present in Court and has been duly identified by the Investigating Officer in the subject FIR namely SI Faizan Ghani, Police Station- Ghazipur, 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. 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 *inter se* between the parties, in addition to the disposal of the present writ petition:-

- (i) Petition u/s 125 CrPC for grant of maintenance against the petitioner.
- (ii) Petition for Restitution of Conjugal Rights U/s 9 of H.M. Act against the respondent No.2.

9. Since the dispute between the parties which arose out of a matrimonial discord between petitioner 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.

10. Resultantly, the FIR No.10/2015 under Sections 406/498A IPC registered at Police Station- Ghazipur, Delhi, and the proceedings arising therefrom are hereby set aside and quashed qua the petitioner subject to his depositing a sum of Rs.5,000/- with the Victims' Compensation Fund within a period of four weeks from today. A copy of the receipt thereof be provided to the Investigating Officer in the subject FIR.

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

SIDDHARTH MRIDUL, J

MAY 20, 2016

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