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

Date of decision: 23.05.2016

+ W.P.(CRL) 1618/2016 and Crl. MA No. 8435/2016

NITESH JINDAL & ORS

Through

versus

..... Petitioners

**Mr. Vijay Kumar Malik, Advocate
along with petitioners**

THE STATE & ANR

Through

..... Respondent

**Mr. Ashish Aggarwal, ASC (Crl.)
SI Arun Ahlawat, PS Kalyan Puri
Respondent no. 2/complainant (wife)
in-person**

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

Crl. MA No. 8435/2016 (Exemption)

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

W.P.(CRL) 1618/2016

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. 340/2014, 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 1st December, 2010. A baby girl namely Gungun has been born out of the said wedlock and she is presently in the care and custody of petitioner no. 1 (husband). Owing to temperamental and ideological differences between the parties to the marriage, they started living separately since 11th September, 2013. On a complaint instituted by respondent no.2/complainant (wife), the subject FIR was registered against the petitioner no. 1 (husband) and his extended 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 5th June, 2014. The salient terms and conditions of the settlement as enshrined in the said order are as follows:-

“1. It has been agreed between the parties that they shall part their company from each other by obtaining a decree of divorce by mutual consent by filing a joint petition for divorce by mutual consent within jurisdiction of Delhi.

2. It has been agreed between the parties that the respondent/husband shall pay Rs. 4,00,000/- (Rs. Four lacs

only) to the complainant against all her claims pertaining to this marriage including stridhan, maintenance (present, past or future) and permanent alimony etc.

3. It has been further agreed between the parties that the above said payment shall be made by the respondent/husband to the complainant by way of cash/DD in the court concerned as per the following manner:-

(i) Rs. 50,000/- (Rs. Fifty Thousand only) shall be paid by Shri Nitesh Jindal to Smt. Chanchal at the time of withdrawal of present case u/s 12 of DV Act on 19.6.14.

(ii) Rs. 1,00,000/- (Rs. One lac only) shall be payable by the respondent/husband to the complainant/wife at the time of recording statement of the parties in the first motion petition, which shall be filed by the complainant on or before 15.7.2014 and the expenses for the same shall be borne by the petitioner Smt. Chanchal.

(iii) Rs. 1,00,000/- (Rs. One lac only) shall be payable by the respondent/husband to the complainant/wife at the time of recording statement of the parties in the second motion petition, which shall be filed within 15 days after the expiry of stipulated period of six months/as per law and the expenses for the same shall be borne by the respondent Sh. Nitesh Jindal.

(iv) Rs. 1,00,000/- (Rs. One lac only) shall be payable by the respondent/husband to the complainant/wife at the time of quashing of the above said FIR before the Hon'ble High Court of Delhi and the said petition shall be filed by the respondent/husband at his own expenses within one month after passing decree of divorce. It is further agreed between the parties that the petitioner shall co-operate with

the respondents in Hon'ble High Court for getting the above said FIR quashed.

(v) Rs. 50,000/- (Rs. Fifty thousand only) shall be paid by Sh. Nitesh Jindal to Smt. Chanchal at the time of withdrawal of petition u/s 125 Cr.P.C. on 28.7.2014.

4. It has been further agreed between the parties that the complainant shall withdraw her petition u/s 125 Cr.P.C. from the concerned court on the date fixed i.e. 28.7.2014.

5. It has been further agreed between the parties that the custody of baby Gungun shall remain with her father Sh. Nitesh Jindal/respondent and petitioner Smt. Chanchal shall not claim any custody rights of baby Gungun in future. However, Smt. Chanchal can meet her daughter baby Gungun on her birthday (Gungun's birthday) till the re-marriage of Smt. Chanchal."

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. 4 lakhs towards all her claims against the petitioners.

5. Counsel for the parties further state that pursuant to the said settlement, a sum of Rs. 3 lakhs has already been received by respondent no.2/complainant (wife). The balance sum of Rs. 1 lakh has been brought to the Court in the shape of a Demand Draft dated 20th May, 2016 bearing No. 005190 drawn on HDFC Bank, 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 11th March, 2016 has already been obtained by the parties from the concerned Family Court, District East, Vishwas Nagar, Delhi.

7. Ms. Chanchal, 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 Arun Ahlawat, 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. 340/2014, 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 depositing a sum of Rs.20,000/- in the aggregate 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.

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.

SIDDHARTH MRIDUL, J

MAY 18, 2016

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