

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 27th May, 2016

W.P.(CRL) 1707/2016 & CRL.M.A. 8902/2016

RATTANDEEP SINGH BABRAA & ORS.

..... Petitioners

Through: Ms Harpreet Kaur and Mr Tanveer
Ahmed, Advocates.

versus

STATE & ANR.

..... Respondents

Through: Mr Rajesh Mahajan, Addl. Standing
Counsel (Crl.).

Mr Pawan Madan, Advocate for R-2.

Insp. D.K.Tejwan, PS- South Campus.

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 prays as follows:-

“A. Pass a Writ of Mandamus or any other writ of the same nature to quash FIR No.14/2014 U/s 499/503 of Indian Penal Code, P.S. South

Campus and the proceedings arising therefrom; and

B. Pass any other writ/order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice.”

2. Issue notice.

3. Mr Rajesh Mahajan, learned Additional Standing Counsel (Crl.), accepts notice on behalf of the official respondent and, at the outset, submits that since the FIR relates to non-cognizable offences no police officer can investigate the same without an order of a Magistrate having power to try such case or commit the case for trial.

4. In terms of the provisions of Section 155 CrPC, the informant is required to be referred to the concerned Magistrate. In the present case it is observed that the complainant/informant is the respondent No.2 in the present petition, namely, Ms Kirandeep Kaur and that the subject FIR alleging the commission of non-cognizable offences was registered at her instance.

5. Ms Kaur, the respondent No.2, who is present in person and has been identified by the IO in the subject FIR, namely, Insp. D.K.Tejwan, PS- South Campus, Delhi, states that subsequent to the institution of the subject

complaint which arose as a consequence of a matrimonial dispute, the parties to the union as well as their extended families have entered into a Memorandum of Understanding dated 19.12.2015 at New Delhi. The salient terms and conditions of the aforesaid Memorandum of Understanding 19.12.2015 are as under:-

- “1. That it has been agreed between the parties that the party of the 1st part shall pay a total sum of Rs.51 lakhs to the party of the 2nd part as full and final settlement of all claims of the party of the 2nd part arising out of this marriage including towards all past, present and future claims on account of maintenance, alimony, Istridhan, Dowry Articles etc.
- 2 That it has been further agreed between the parties that the parties that the party of the 1st part shall pay a total sum of Rs.51 lacs to the party of the 2nd part in the following manner:-
 - a) Rs.10,20,000/- will be paid by the party of the 1st part to the party of the 2nd part at the time of recording of statement in the Ist motion I petition for divorce by mutual consent.
 - b) Rs. 5,10,000/- will be paid by party of the 1st part to the party of the 2nd part at the time of recording of statement in the petition for quashing of FIRs mentioned above, other than FIR no. 09/2014, P.S. Nanakpura, U/s 498-A/406/34 IPC before Hon’ble High Court of Delhi.

- c) Rs. 17,85,000/- will be paid by party of the 1st part to the party of the 2nd part at the time of recording of statement in the IInd motion in petition for divorce by mutual consent.
 - d) Rs.17,85,000/- will be paid by party of the 1st part to the party of the 2nd part at the time of recording of statement in the petition for quashing of 09/2014, P.S. Nanakpura, U/s 498-A/406/34 IPC before Hon'ble High Court of Delhi.
- 3. That the party of the second part undertakes to withdraw the complaint cases filled by the party of the second part against the party of the first part and others under section 12 of the Domestic Violence Act pending in the court of Ms. Vandana Jain, M.M. Mahila Court, Saket, new Delhi by moving an application in the court on the same day of passing of 1st motion for divorce by mutual consent.
 - 4. That immediately after the passing of the 1st motion both the parties shall withdraw all complaints, all proceeding appellate or revision arising out of above said complaints and assist fully in winding up/quashing of the cases mentioned as Serial Nos.1,3,5,6,7,8,9 and 11 mentioned in the list of cases given above.
 - 5. That party of the second part agrees and undertakes to cooperate and sign all necessary documents themselves and through their attorneys for the purposes of quashing of FIR no.09/2014, P.S. Nanakpura, U/s 498-A/406/34 IPC against the party of the 1st part and his relatives after grant of divorce.

6. That the confirming party and the party of the second part agrees and undertakes to cooperate and sign all necessary documents themselves ad through their attorneys for the purposes of quashing of FIR No.219/2014 U/s 66-A, E/67 Information Technology Act, P.S. Rajinder Nagar against the party of the 2nd part after passing of 1st motion for divorces by mutual consent.
7. That all the parties further agrees and undertakes to cooperate and sign all necessary documents themselves or through their attorneys for the purposes of quashing of other FIRs except FIR no.09/2014, P.S. Nanakpura, U/s 498-A/406/34 IPC registered on the complaint of one against the other(s) after passing of 1st motion for divorce by mutual consent.
8. The parties agree to withdraw any suit, criminal complaints or any other legal or quasi-legal proceedings initiated by one party qua the other on their own behalf or on behalf of their relatives, family members or any other person after the recording of statement in 1st motion in petition for divorce by mutual consent.

6. A perusal of the afore-stated Memorandum of Understanding reveals that as a consequence thereof multiple proceedings between the parties have been resolved. Counsel appearing on behalf of the parties on instructions from the latter state that the said memorandum of understanding has been acted upon and that the quashing of the present proceeding shall have the

salutary effect of applying a quietus to contentious issues between the parties.

7. In the present case, it is observed that the offences in the subject FIR do not fall within the exempted categories of serious/heinous offences which ought not to be quashed on the ground of an amicable resolution of the disputes. [Ref. *Gian Singh vs. State of Punjab and Anr.* reported as (2012) 10 SCC 303]. The offences alleged to have been committed in the subject FIR are private in nature and do not have a serious impact on society.

8. Mr Mahajan, learned Additional Standing Counsel (Crl.) appearing on behalf of the official respondent does not oppose the quashing of the subject FIR.

9. Since the dispute between the parties which arose out of a matrimonial discord between petitioners and respondent No.2 and resulted in the registration of the subject FIR, has been settled amicably by way of a Memorandum of Understanding without any undue influence, pressure or coercion, no useful purpose will be served by proceeding with the subject FIR.

10. Resultantly, the FIR No.14/2014 under Sections 499/503 IPC and registered at Police Station- South Campus, Delhi, is hereby set aside and quashed qua the petitioners

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

12. A copy of this order be given *dasti* under signature of Court Master to counsel for the parties.

MAY 27, 2016
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SIDDHARTH MRIDUL, J