

#39

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 27.05.2016

W.P.(CRL) 1684/2016

RAHUL SHARMA & ORS

..... Petitioners

Through: Mr. Prem Prakash Soni, Advocate
with Mr. S.R. Pandey and Mr. Deepak
Kashyap, Advocates

versus

THE STATE & ANR

..... Respondents

Through: Mr. Tushar Sannu, Advocate for Mr.
Rahul Mehra, Standing Counsel
(Criminal) and SI Manju, PS- Begum
Pur for R-1

Mr. Durga Manyu Gupta, Advocate
with Mr. Aijazuddin Khan and Mr.
Brajesh Kumar, Advocates for R-2
along with R-2 in person

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

CRL.M.A.8830/2016 (Exemption)

Exemption granted subject to all just exceptions.

The application is disposed of accordingly.

W.P.(CRL) 1684/2016

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.931/2014, under Sections 498A/406/34 IPC, registered at Police Station- Begum Pur, 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 06.05.2011. One male child, namely, Master Luv Upadhyay was born out of the said wedlock on 16.06.2012 and is in the care and custody of the respondent No.2. Due to temperamental and ideological differences between the parties to the marriage, they started living separately since 29.06.2012. On a complaint instituted by respondent No.2/complainant (wife), the subject FIR was registered against the petitioner No.1 and his parents, who are arrayed as petitioner Nos.2 and 3 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 before the Principal Judge (North-West), Family Courts, Rohini Delhi by way of a joint statement recorded on 16.05.2016. The settlement recorded by way of a joint statement dated 16.05.2015 is annexed to this petition as Annexure B. The said joint statement dated 16.05.2016 recorded before the Principal Judge (North-West), Family Courts, Rohini, Delhi is as follows:-

“Joint Statement of

Smt. Arti Sharma @ Arti Tiwari W/o Shri Rahul Sharma
D/o Sh. I. P. Tiwari, aged about 30 years, R/o H. No.85,
2nd Floor, Pkt-I, Sector-20, Rohini, Delhi-86, DH

Shri Rahul Sharma S/o Shri Mahesh Chand Sharma, aged
about 32 years, R/o J-1297, Mangol Puri, Delhi-83, JD

On S.A.:

We have resolved our matrimonial disputes and differences including stridhan, maintenance-past, present and future, permanent alimony amicably today in the court. We have decided to dissolve our marriage by mutual consent.

I, Rahul Sharma, have agreed to pay a sum of Rs.5,38,000/- to my wife towards full and final settlement of all her and minor son's claims including stridhan, maintenance – past, present and future and permanent alimony, etc. I shall pay a sum of Rs.38000/- to my wife on 06.06.2015. I shall further pay a sum of Rs.1.50 lacs to my wife at the time of first motion which shall be filed on or before 31.07.2015. I shall further pay Rs.2 lacs to my wife at the time of second motion which shall be filed one week after expiry of statutory period of six months from the date of first motion. I shall pay the balance amount of Rs.1.50 lacs to my wife at the time of quashing of FIR u/s 498A/406/34 IPC before the Hon'ble High Court of Delhi which shall be filed within two months from the second motion. We have agreed that the custody of the minor son Master Luv Upadhyay shall remain with my wife and I shall not claim his custody in any court of law or authority in future. However, I shall have the visitation rights to meet the child once in two

months on first Saturday of the alternate month in the Children Room, Family Courts, Rohini, Delhi from 10.00 AM to 12.00 PM.

I, Arti Sharm @ Arti Tiwari, have agreed to accept Rs.5,38,000/- towards full and final settlement of all my and my son's claims including stridhan, maintenance – past, present and future and permanent alimony, etc. It is correct that my husband shall pay me a sum of Rs.38000/- on 06.06.2015. It is correct that my husband shall further pay me a sum of Rs.1.50 lacs to my wife at the time of first motion which shall be filed on or before 31.07.2015. It is correct that my husband shall further pay Rs.2 lacs at the time of second motion which shall be filed one week after expiry of statutory period of six months from the date of first motion. It is correct that my husband shall pay me the balance amount of Rs.1.50 lacs at the time of quashing of FIR u/s 498A/406/34 IPC before the Hon'ble High Court of Delhi. I shall cooperate with my husband in quashing of the said FIR before the Hon'ble High Court of Delhi which shall be filed within two months from the second motion. We have agreed that the custody of the minor son master Luv Upadhayay shall remain with me and my husband shall not claim his custody in any court of law or authority in future. However, my husband shall have the visitation rights to meet the child once in two months on first Saturday of the alternate month in the Children Room, Family Courts, Rohini, Delhi from 10.00 AM to 12.00 PM.

We have agreed that we shall withdraw all pending litigation, if any, against each other or our respective relatives and family members and have also agreed not to

file any proceedings against each other and our respective relatives and family members in future with respect to the present matrimonial dispute.

We have agreed that we shall not file any litigation-criminal or civil against each other and our respective relatives and family members qua this marriage in any court of law or authority in future. We shall be bound by our statement. We pray that the petition be disposed of as satisfied.”

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.5,38,000/- (Rupees Five Lakhs Thirty Eight Thousand only) towards all her claims qua stridhan, maintenance (past, present and future) and permanent alimony including the claims qua her son Master Luv Upadhyay.

5. Counsel for the parties further state that pursuant to the afore-stated settlement between the parties to the union, a sum of Rs.3,88,000/- (Rupees Three Lakhs Eighty Eight Thousand only) has already been received by respondent no.2/complainant (wife). The balance sum of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand only) has been brought to the Court in cash and has been handed over to the respondent No.2/complainant (wife). The latter acknowledges receipt thereof.

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 12.04.2016 has already been obtained by the parties from the court of Judge, Family Court, North-West, Rohini, 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 Manju, Police Station- Begum Pur, 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 joint statement dated 16.05.2015, 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.931/2014, under Sections 498A/406/34 IPC, registered at Police Station- Begum Pur, Delhi and the proceedings arising therefrom are hereby set aside and quashed qua all the three petitioners subject to their paying an aggregate sum of Rs.15,000/- (Rupees Fifteen Thousand only) in cash, to Master Luv Upadhyay within a period of two 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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