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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CONT.CAS(C) 964/2016

PRITI PATEL

..... Petitioner

Through: Ms. Indira Unninayar, Advocate with
Mr. Naryan Krishan and Ms. Nina
Bhalla, Advocates.

versus

NALIN SATYAKAM KOHLI & ORS

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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17.08.2016

CM Appl. 29994/2016 (exemption) in Cont.Cas(C) 964/2016

Allowed, subject to just exceptions.

Cont.Cas(C) 964/2016

Present contempt petition has been filed alleging wilful disobedience of the Settlement Agreement dated 29th November, 2012 and the judgment dated 30th September, 2013 whereby the marriage of petitioner and respondent No.1 was dissolved by mutual consent.

Learned counsel for petitioner contends that the respondent No.1 who was an accused in FIR No.121/2012 has committed contempt as he did not file a petition seeking quashing of the said FIR in accordance with the Settlement Agreement.

A perusal of the paper book reveals that the parties had jointly undertaken to file a quashing petition within fifteen days of the divorce being granted by mutual consent. The relevant portion of the Settlement Agreement dated 19th November, 2012 is reproduced hereinbelow:-

“17. The parties have agreed to the following terms of the settlement agreement:-

xxx

xxx

xxx

d) That within 15 days from the grant of divorce, the parties shall file the necessary petition before the Hon'ble High Court of Delhi, for quashing of the FIR No.133/11 PS Women Rajkot Gujarat, under section 498A/323/406/420/119 IPC and Section 3 & 7 of Dowry Prohibition Act registered on 04.09.2011 filed by the first party now stood transferred to P.S. Chittranjan Park, New Delhi. The first party shall sign all the necessary documents in this regard and shall also appear before the Hon'ble High Court to make the necessary statement before the Hon'ble Court as and when required.”

Though learned counsel for petitioner states that in the petition for dissolution, the respondent No.1 had undertaken to file a quashing petition, yet this Court finds that prior to the expiry of fifteen days period, the police had filed a cancellation report in which notice was issued by the trial Court on 08th August, 2013. Consequently, this Court is of the opinion that non-filing of quashing petition does not constitute wilful disobedience of the Settlement Agreement.

It is pertinent to mention that subsequently upon notices being issued to both the petitioner and respondent No.1, counsel for petitioner had made a statement that the complainant/petitioner did not want to file any protest

petition.

Learned counsel for petitioner emphasises that the statement made by her counsel was without any authority.

However, this Court is of the opinion that the said averment/defence cannot be believed at this stage as the same has not been tested in any Court proceeding.

In any event, even if the petitioner's contention is accepted, then also the present contempt petition on the aforesaid allegations would be barred by limitation.

At this stage, learned counsel for petitioner states that subsequently the petitioner filed a petition in the High Court for quashing the closure report dated 20th July, 2013 as well as the order quashing the FIR 121/2012, but the respondent No.1 opposed the same. According to her, this stand of the respondent constitutes contempt.

However, this Court is of the view that the respondent's opposition cannot and does not constitute contempt of Court proceedings inasmuch as the police had filed a closure report which has been accepted by the trial Court without any objection from petitioner's counsel. Consequently, present contempt petition is dismissed.

This Court clarifies that the observations made by it in the present proceedings are only in the context of contempt of Court proceedings and shall not affect the merits of the controversy between the parties.

MANMOHAN, J

AUGUST 17, 2016

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