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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 15.01.2016

BAIL APPLN. 2568/2015

ABHINAV NAGPAL

..... Applicant

Through: Mr Nitin Soam, Advocate.

versus

THE STATE (GOVT OF NCT OF DELHI)

..... Respondent

Through: Ms Radhika Kolluru, APP with SI
Tulsi Ram, PS- Shalimar Bagh.

Mr Peeush Kulshreshtha, Advocate
for R-2.

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

1. The present is an application under section 438 of the Code of Criminal Procedure, 1973 (Cr.P.C.) seeking pre-arrest bail in FIR No.798/2015, under sections 406/498A/34 IPC registered at Police Station-Shalimar Bagh, Delhi.

2. Counsel appearing on behalf of the applicant as well as the complainant, on instructions from the latter, who are present in court, state that with the assistance of the Mediator, they have arrived at an amicable

resolution of all their outstanding marital disputes vide Settlement Deed dated 24.12.2015, a copy of which has been handed over in court today. The same is taken on record.

3. The relevant recitals of the said Settlement Agreement dated 24.12.2015 are as follows:-

- “1. That after considering all the circumstances the Parties have mutually agreed that their marriage should be dissolved and they are now ready to amicably part ways by mutually applying for getting their marriage dissolved through Competent Court of Law at Delhi.
2. Both Parties have agreed to amicably and mutually resolved and settled, in full and final, all their differences and disputes. It is agreed that towards full and final settlement of all the differences and disputes between the Parties and towards past, present and future maintenance of the Second Party and Baby Meher, the First Party shall pay (as per the terms of this Settlement Deed) a total sum of Rs.17,50,000/- (Rupees Seventeen Lakhs Fifty Thousand only) (hereinafter “Full and Final Settlement Amount”), which shall be paid in various tranches at various stages as set forth below.
3. Out of the Full and Final Settlement Amount, a sum of Rs.4,00,000/- (Rupees Four Lakhs only) shall be paid by the First Party to the Second Party at the time of hearing of bail application no. 2568/2015 on 15.01.2016, as pending before the Hon’ble High Court of Delhi. Second Party undertakes to extend full cooperation to the First Party in the bail proceedings.

4. Out of the Full and Final Settlement Amount, a sum of Rs.4,50,000/- (Rupees Four Lakhs Fifty Thousand only) shall be paid by the First Party to the Second Party at the time of hearing of the first motion for divorce by mutual consent before the concerned Court of competent jurisdiction. It is agreed between the parties that the first motion shall be filed not later than 30th January, 2016.
5. Out of the Full and Final Settlement Amount, the First Party shall pay a sum of Rs.4,00,000/- (Rupees Four Lakhs only) to the Second Party, at the time of hearing of the second motion for the divorce by mutual consent, which shall be filed between 6 to 10 months from the date of the First Motion.
6. It is agreed that within a period of two months from the filing and grant of the Second Motion for divorce by mutual consent, the First Party shall file a petition before the Hon'ble Delhi High Court for quashing of the said FIR [i.e., FIR No. 798/2015 u/s 498A/406/34IPC dated 29.06.2015, PS: Shalimar Bagh]. It is also agreed that at the time of hearing of the petition for quashing of the said FIR, the First Party shall pay a further sum of Rs.5,00,000/- (Rupees Five Lakhs only) to the Second Party. It is further agreed that the Second Party shall appear before the Court and undertakes to fully cooperate with and assist the First Party in the said process of quashing of the said FIR. In case the Second Party fails to appear before the Hon'ble Court then the same shall be taken as implied consent of the Second Party to the quashing.
7. That all the dowry articles of the Second Party are lying in the rented house at House No. VP-258 C, VP Block, Pitampura, Delhi- 110034, which is already in the possession of the Second Party. However, the Second Party shall allow the First Party to take back certain articles belonging to the First Party which are lying in the said rented accommodation i.e. (a) one window AC, (b)

clothing items of the First Party, (c) shoes and (d) other personal grooming accessories. The parties shall mutually discuss the date and time of visit of the First Party for taking back the aforesaid articles, which shall not be later than 30.12.2015, in the presence of respective counsels of the parties. Second Party undertakes to vacate the rented accommodation after removing all her articles lying therein on/after 30.12.2015 but not later than 05.01.2016. However, the First Party also undertakes to allow the Second Party to directly take back the security amount of Rs.10,000/- as deposited with the landlord. Further, the First Party undertakes to clear the arrears of rent, if any, up to 31.12.2015 with regard to the rented accommodation. If for any reason whatsoever the Second Party does not vacate the rented premises mentioned above then the First Party shall not be liable for the payment of any rent after 05.01.2016 and the Second Party shall be liable for the same to the landlord.

8. Both Parties confirm and acknowledge that all articles and valuables including *istridhan*, jewelry, belonging to respective parties have been exchanged and the respective parties acknowledge the same. The Second Party confirms and acknowledges that she has received all her belongings and articles, including *istridhan* and jewellery, from the First Party, and no articles remain receivable to her from the First Party and/or his family members, except as stated above.
9. That as per the terms of the present Settlement Deed, all the disputes of the Second Party and her assigns shall stand settled in FULL AND FINAL with the First Party and his family members (that is, entire and all claims towards cost of maintenance of the Second Party and her daughter Baby Meher i.e. past, present and future maintenance, also towards all other claims that Second Party may have against First Party due to said wedlock/legal relation that

includes claims with respect to dowry, instridhan alimony, gifts, jewelry, expenditure, any other claim what so ever that the Party of the Second Part may claim against party of Second Part due to said matrimonial relation.) The Second Party will have no right of claim on any of the property movable or immovable, self acquired, ancestral, joint or HUF of the Second Party, or his family for any past, present or future claims, which have all been settled in terms of the present Settlement Deed.

10. That the Second Party reiterates and acknowledges that neither Second Party nor Baby Meher shall have any right or claim on any of the property movable or immovable, self acquired, ancestral, joint or HUF of the First Party, or his family for any past, present or future claims.
11. Both Parties shall extend full cooperation and support to each other for the filing of the First Motion, Second Motion, petition for quashing before the Hon'ble High Court of Delhi and/or any other document as may be required to be filed by the Parties for obtaining the decree of divorce by mutual consent.
12. The Second Party also undertakes to withdraw the Pending Litigations as mentioned above on the respective next date of hearings in the said cases.
13. That any other complaint/all other complaints/cases filed by the Second Party and her family members against the First Party and his family members and vice versa, shall be treated as withdrawn/closed. That is further agreed between both the Parties that except the Pending Litigations they have not and shall not file any criminal complaint/application/case before any police station, any court, authority or tribunal against each other or against their family members in respect of their present marriage or otherwise except that above stated Petitions/Applications seeking Divorce and the petition for quashing of the said FIR.

14. That it is further agreed that neither of parties shall take any coercive action against each other and shall ensure safe, secure and cordial atmosphere for each other and their families respectively.
15. That the Second Party shall make no further claim/right against any movable or immovable property of the First Party or his family members.
16. That both parties and also their respective families shall make an endeavor not to speak ill about each other or their respective family members.
17. That both the parties shall have on satisfaction of aforementioned terms no further claims whatsoever against each other from this day onwards and terms of the aforementioned deed are binding on them and the both the parties hereby undertake to abide by the terms and conditions of the present agreement.
18. That the present Settlement Deed has been entered into to avoid undue hardship in life, so that both the Parties can separately move on with their respective lives.
19. That the Parties have entered into the present Settlement Deed with their consent, free will & wish and in the sound disposition of mind and without any force, coercion, pressure, undue influence from each other or from any third party.
20. That the marriage between the Parties was solemnized at Delhi. That the present Settlement Deed can be executed through any Competent Court of Law at Delhi.
21. It is further agreed that in case the First Party breaches the terms and conditions of the present settlement then the Second Party shall be entitled to take action against him in accordance with law including revival of cases. And in case the Second Party breaches the terms and conditions of the present settlement then the Second Party shall be liable to return the amount of money as received by

her and for withdrawal of cases and quashing of FIR there shall be implied consent for the Second Party.

22. The contents of present deed have been read and the parties have understood and are satisfied with the same and undertake to abide by the terms and conditions mentioned in the present Settlement Deed.”

4. The agreement entered into between the parties is lawful and the same is accepted. The parties shall now abide by the terms and conditions thereof without demur.

5. In pursuance to the aforesaid settlement a sum of Rs.4,50,000/- has been handed over by the applicant to the complainant-wife in court today by way of a demand draft bearing No.390166 dated 15.01.2016 drawn on Citi Bank, N.A. Delhi. The complainant acknowledges receipt subject to its realization.

6. The present dispute arose out of a matrimonial discord. The same has been settled as aforesaid. As a consequence of the settlement arrived at between the parties, a quietus will be applied to the following proceedings in addition to the disposal of the present bail application:-

- (i) Complaint u/s 12 of the DV Act filed by the Second Party pending before the Court of Ms.Sushil Bala Dagar, MM, Rohini Courts, Delhi;

- (ii) Contempt petition filed by the Second Party [Cont. Cas (S) No. 765/2015] pending before the Hon'ble High Court of Delhi;
- (iii) Miscellaneous application in Maintenance Petition No.81/2015 filed by the Second Party pending before the Court of Sh. Narottam Kaushal, Principal Judge, Family Court, Rohini.

7. In the present case, it is observed that the applicant has clean antecedents. The applicant has cooperated with the investigation and there is neither any hint nor allegation that he shall not be available to stand trial, if any, or that he shall tamper with the evidence or influence the witnesses.

8. Resultantly, the present application is allowed. In the event of his arrest, the applicant shall be enlarged on bail on his furnishing a personal bond in the sum of Rs.5,000/- (Rupees Five Thousand) with one surety of the like amount to the satisfaction of the Arresting Officer/Station House Incharge.

9. The application is disposed of accordingly.

SIDDHARTH MRIDUL, J

JANUARY 15, 2016

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