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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 28.01.2016

W.P.(CRL) 2/2016

PARMESH GARG & ORS

..... Petitioners

Through: Mr. Kaushlender Singh, Advocate
Petitioners-in-person

versus

STATE (NCT OF DELHI) & ANR

..... Respondents

Through: Ms. Nandita Rao, ASC (Criminal)
with Ms. Srilina Roy, Advocate for
R-1 and SI Satbir Singh, PS- Tilak
Nagar
Mr. Sandeep Singh, Advocate for Mr.
Rajpal Singh, Advocate for R-2 along
with R-2-in-person.

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

CRL.M.A.26/2016 (Exemption)

Exemption granted subject to all just exceptions.

The application is disposed of accordingly.

W.P.(CRL) 2/2016

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.318/2014, under Sections 498A/406/34 IPC, registered at Police Station- Tilak Nagar, Delhi and the proceedings arising therefrom.

2. The facts in brief are that on 10.10.2010 Ramesh Garg (petitioner No.1 herein) married Rashmi (respondent No.2/complainant herein) according to Hindu customs and ceremonies in Delhi. No child was born out of the said wedlock. Owing to ideological and temperamental differences the parties to the marriage have been living separately since 15.03.2013. On a complaint filed by Rashmi against her husband Ramesh Garg and his family members, the subject FIR was registered.

3. Eventually, better sense prevailed and the parties decided to settle all their matrimonial disputes with the assistance of Delhi Mediation Centre, Tis Hazari Courts, Delhi. The settlement agreement dated 01.08.2014 is annexed to this petition as Annexure C. The salient terms and conditions of the said settlement agreement dated 01.08.2014 are as follows:-

“1) It is agreed that the wife and husband shall dissolve their marriage by decree of divorce by mutual consent without leveling allegations and counter-allegations against each other in accordance with law.

2) It is agreed that the husband shall pay Rs.5,60,000/- (Rupees Five Lakhs Sixty Thousand Only) along with the articles as per Annexure A to the wife towards her all legal entitlements past, present and future

arising out of the marriage which shall include permanent alimony, maintenance, istridhan and all other miscellaneous and legal expenses.

3) It is agreed that the wife and husband shall initiate appropriate legal proceedings before the Court of competent jurisdiction at Tis Hazari Courts for recording of First Motion within one month from today. It is further agreed that at the time of recording of First Motion the husband shall pay Rs.2,00,000/- (Rupees Two Lakhs Only) by way of FD to be issued from nationalized bank in the name of 'Rashmi Mutreja' (wife) which shall be kept on judicial record and shall be given to the wife at the time of recording of second motion and wife shall be entitled to all benefits accrued to FD including interest. It is further agreed that the husband shall return the articles as per the list Annexure 'A' to the wife at the time of recording of statement in First Motion Petition.

4) It is agreed that husband and wife shall initiate appropriate legal proceedings for recording of Second Motion before the court of competent jurisdiction at Tis Hazari Courts in accordance with law. It is further agreed that at the time of recording of second motion and dissolution of marriage by decree of divorce by mutual consent, the husband shall pay Rs.2,00,000/- (Rupees Two Lakhs Only) in cash/DD to the wife. It is agreed that in case if husband does not appear before the Court of competent jurisdiction for recording of Second Motion, in that eventuality FDR of Rs.Two Lakhs in the name of wife shall be delivered to the wife. It is further agreed that in case if the wife failed to appear for recording of second motion, in that eventuality, the said FDR of Rs.Two Lakhs shall be returned back to husband and he shall be entitled for all benefits arising out of the said FDR including interest.

5) It is agreed that the husband shall initiate appropriate legal proceedings for quashing of FIR bearing No.318/14 u/s 498A/406/34 IPC, P.S. Tilak Marg within one month after dissolution of marriage and at that

time the husband shall pay Rs.1,60,000/- (Rupees One Lakh Sixty Thousand Only) in cash/DD to the wife, before the Hon'ble High Court of Delhi. It is further agreed that wife shall co-operate for the same.

6) The wife and the husband with the assistance of their respective counsel shall cooperate in the execution of the terms and conditions of this settlement.

7) It is settled that after compliance of the terms of the present settlement, there shall remain no dispute due between the parties arising out of the said marriage and that none of the parties shall file any civil or criminal proceedings against each other in future and that if any other case/petition/complaint etc. between the parties is pending in any Court or Authority, the same shall be withdrawn/got disposed of by the respective party.

8) The parties have settled their dispute out of their own free will, without any fear, force, coercion or undue influence from any side.”

4. In a nutshell, it has been agreed by and between the parties to the union that Ramesh Garg shall pay to Rashmi a total sum of Rs.5,60,000/- (Rupees Five Lakhs Sixty Thousand Only) along with the articles as per Annexure ‘A’ towards all her legal entitlements past, present and future arising out of the marriage. In pursuance thereof, a sum of Rs.4,00,000/- (Rupees Four Lakhs Only) has already been received by Rashmi. The balance sum of Rs.1,60,000/- (Rupees One Lakh Sixty Thousand Only) has been brought to the Court in the shape of a Demand Draft dated 09.11.2015 bearing No.727809, drawn on Corporation Bank, Rohini, Delhi in favour Rashmi. The same is handed over to Rashmi, the complainant herein in

Court today, who acknowledges receipt thereof subject to encashment. The parties have already obtained a decree of divorce by mutual consent from the concerned Family Court by way of order dated 04.08.2015.

5. Rashmi, respondent No.2/complainant, who is present in Court, has produced her Voter Identity Card and has been duly identified by her counsel Mr. Sandeep Singh, Advocate, states that in view of the settlement arrived at between the parties, she is no longer keen to proceed with the subject FIR and the proceedings arising therefrom.

6. In view of the foregoing, since the dispute which resulted in the registration of the subject FIR has already been resolved amicably by the parties without any undue influence, pressure or coercion, no useful purpose will be served by proceeding with the subject FIR and the proceedings arising therefrom.

7. Consequently, FIR No.318/2014, under Sections 498A/406/34 IPC, registered at Police Station- Tilak Nagar, Delhi and the proceedings arising therefrom are hereby set aside and quashed *qua* all the petitioners subject to their depositing a sum of Rs.5,000/- (Rupees Five Thousand Only) each with the Victims' Compensation Fund, Government of NCT of Delhi within a

period of two weeks from today. The receipt of the said deposit shall be furnished to the concerned IO.

8. The writ petition is disposed of accordingly.

SIDDHARTH MRIDUL, J

JANUARY 28, 2016
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