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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 812/2017**

PARDEEP KUMAR & ORS.

..... Petitioners

Through: Mr. Praveen Kumar Rajput, Advocate
along with petitioners No.1 to 7 in
person.

versus

STATE (NCT OF DELHI) & ANR.

..... Respondents

Through: Ms. Richa Kapoor, ASC along with
W/SI Shiksha, PS-Chhawala, for the
State.
Mr. Hemant Kumar, Advocate for and
along with respondent No.2 in person.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER
17.03.2017

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Crl. M.A. No. 4450/2017

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(CRL) 812/2017

The petitioner has preferred the present writ petition to seek quashing of FIR No.64/2016 under Sections 498A/ 406/ 34 IPC registered at PS – Chhawala, New Delhi.

Issue notice. Ms. Kapoor accepts notice on behalf of the State. Respondent No.2 is present in Court and she also accepts notice. She is identified by the IO.

The petition is premised on a settlement arrived at between the petitioners and respondent No.2. Under the settlement, the petitioners have brought the balance amount of Rs.50,000/- which has been tendered to respondent No.2 by way of a pay order. She has already received the amount of Rs.3 Lakhs under the settlement.

The petitioner No.1 and respondent No.2 were married. Out of the wedlock, one girl child was born, who is presently about 3 ½ years old. Under their settlement, the parties have obtained divorce by mutual consent. Initially, the parties arrived at a settlement in mediation on 12.04.2016. However, subsequently they altered the terms thereof on 23.04.2016 by entering into a Memorandum of Understanding/ settlement which has been placed on record as Annexure – P-4. Under the settlement, the girl child has to remain in the custody of the mother/ respondent No.2 till she attains the age of five years, and thereafter, the issue of custody of the child is left to be decided keeping in view the welfare of the girl child and the consent of the girl child.

Respondent No.2, who is present in Court states that she shall retain the custody of the child even after she attains the age of five years. However, in case, the girl child wishes to go with her father, i.e. petitioner No.1, she will not come in the way.

It is noticed that under the MOU dated 23.04.2016, the petitioner No.1 had placed a condition that respondent No.2 shall not claim any maintenance for maintaining the baby child. This condition is against the

welfare of the child and is, therefore, unacceptable to the Court. Consequently, this Court made it clear to the petitioners that the Court would not enforce such an agreement and not quash the FIR and the proceedings arising therefrom.

After due deliberations, all the petitioners who are present in Court have stated that the petitioner No.1 shall pay maintenance of Rs.5,000/- per month to respondent No.2 for upbringing of the minor child. Petitioner No.1 states that the aforesaid payment of Rs.5,000/- per month shall be made by petitioner No.1 through RTGS into the bank account of respondent No.2. Respondent No.2 shall provide the said particulars of the bank account to the petitioner No.1 through the IO. The payment shall be made from the month of April 2017 onwards. It shall be made in advance by the fifth day of every calendar month.

Since respondent No.2 is also agreeable to the quashing of the FIR in question and the proceedings arising therefrom, subject to compliance of the aforesaid conditions, the FIR in question and the proceedings arising therefrom are hereby quashed. It is, however, made clear that in case of non-compliance of the aforesaid conditions, it shall be open to the respondent No.2 to seek recall of this order.

VIPIN SANGHI, J

MARCH 17, 2017

B.S. Rohella