

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

COC-2287-2015

Date of Decision: 18.12.2018

Shruti Sharma

...Petitioner

vs.

Arun Sharma and Ors

..Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Manish Prabhakar, Advocate, for the petitioner.

Mr. M.S.Bedi, Sr. Advocate with
Mr. Sidhant Mehta, Advocate, for respondent No.1.

Mr. Vipin Gogia, Advocate, for respondents No. 2 to 4.

Mr. V.K.Kaushal, Advocate, for respondents no. 5 and 6.

Mr. S.S.Mann, Sr. DAG, Haryana.

NIRMALJIT KAUR,J

Petitioner, namely, Shruti Sharma is the wife of respondent No.1-Arun Sharma. The marriage was solemnized on 10.07.2011 at Chandigarh.

In view of the dispute between the parties and other various reasons, the divorce petition came to be filed in the year 2018.

The said divorce petition is pending before the learned Additional District & Sessions Judge, Jalandhar.

Besides the divorce petition, the following cases/applications are pending between the parties:-

(a) Transfer application No.412 of 2018, filed by petitioner-Shruti Sharma, for petition under Section 13 of the Hindu Marriage Act from Jalandhar to Panchkula.

(b) Execution application in order dated 20.11.2013 passed by Chief Judicial Magistrate, Panchkula in the petitioner under Section 12 of the Domestic Violence Act filed by the petitioner-Shruti Sharma.

(c) FIR bearing No.144 dated 02.04.2013 under Sections 323/498-A/406 and 506 IPC registered at Police Station Sector 05, Panchkula by Shruti Sharma against the respondents.

(d) Domestic Violence Cases No. 627 of 2014 and 4597 of 2013, titled as ***Shruti Sharma vs. Arun Sharma and others***, was decided *ex parte* on 20.11.2013 by Chief Judicial Magistrate, Panchkula and presently both execution petition and application for setting aside the aforesaid *ex part* order is pending for 31.01.2019 before Chief Judicial Magistrate, Panchkula.

In the petition filed under Section 12 of the Domestic Viloance Act, the Chief Judicial Magistrate, Panchkula, vide order dated 20.11.2013 (Annexure P10) directed the respondents to pay Rs.75000/- per month to the petitioner on account of her maintenance (including maintenance of minor daughters), rental accommodation, emotional distress etc. The Chief Judicial Magistrate, Panchkula, further directed respondent No.1 not to alienate his share in the farm house No.27, village Jagan, Nakodar road, situated at Jalandhar.

During this period, a Memorandum of Understanding (MOU) dated 03.12.2013 (Annexure P2) arrived at between the parties which was made part of the order dated 17.12.2013 passed in CWP No. 2350-2013.

When respondent No.1 did not comply with the terms and conditions of the MOU, the petitioner was left with no other option but to file the present contempt petition.

During the pendency of the present contempt petition, an amount of Rs.40 lakhs was deposited with the Registrar (General) of the Court, vide order dated 21.08.2018, which has been converted into Fixed Deposit Receipt (FDR).

On 04.12.2018, the parties sought time to come to a settlement in view of the discussion held in the Court.

Today, the petitioner is present in the Court alongwith her father and respondent No.2-Subhash Kumar Sharma, father of respondent No.1-Arun Sharma, is also present in the Court. Both petitioner as well as respondent No.2, have suffered statement before this Court. Both the parties have agreed to amicably resolve their dispute.

Respondent No.2, father of respondent No.1, has given an undertaking, before this Court, to pay Rs.2,25,00,000/- (Rs. Two crores twenty five lakhs only) in four installments to petitioner-Shruti Sharma, by way of demand draft in her name, towards full and final settlement subject to their marriage being dissolved by way of mutual consent i.e. under Section 13-B of the Hindu Marriage Act, and withdrawal of all other cases including quashing of FIR and under the Domestic Violence Act.

Similarly, petitioner-Shruti Sharma, has given an undertaking, before this Court, that she is ready to settle the entire dispute with the respondents subject to payment of Rs.2,25,00,000/- (Rs. Two crores twenty five lakhs only) in four installments, by way of demand draft in her name, towards full and final settlement. It is further stated by petitioner-Shruti Sharma that she has no objection to the grant of divorce by way of mutual consent and she will also withdraw all cases registered against her husband and his family members..

The said statements be read as a part of this order.

In view of the above, the contempt petition is disposed of as under:-

(1) Petitioner-Shruti Sharma shall also move an appropriate application allowing the petition pending for setting aside the order dated 20.11.2013 passed by CJM, Panchkula, titled as **Shruti Sharma vs. Arun Sharma and others**, in view of the settlement arrived at between the parties. On moving such application by the petitioner, order passed under the Domestic Violence Act shall be set aside subject to payment of Rs.65 lakhs by way of demand draft, in favour of petitioner-Shruti Sharma, which shall be handed over to the petitioner simultaneously in the Court.

(2) An appropriate application/petition for quashing of FIR bearing No. 144 dated 02.04.2013 under Sections 323/498-A/406 and 506 IPC registered at Police Station Sector 5, Panchkula or an appropriate application for acceptance of cancellation report, shall also be moved by the parties within one month of the setting aside the order dated 20.11.2013 passed under the Domestic Violence Act. The second installment of Rs.60 lakhs shall be paid by respondent No.1 or respondent No.2, as the case may be, at the time of quashing of FIR bearing No. 144 dated 02.04.2013 under Sections 323/498-A/406 and 506 IPC registered at Police Station Sector 5, Panchkula. It is, however, clarified that quashing of FIR/acceptance of cancellation report will be subject to handing over of the demand draft of Rs.60 lacs, to the petitioner.

(3) Both the parties shall move an appropriate application for converting the divorce petition filed under Section 13 of the Hindu Marriage Act into Section 13-B of the Hindu Marriage Act. Thereafter, both

the parties shall appear before the concerned Court for first motion hearing on the date so fixed by the concerned Court.

Respondent No.1 or respondent No.2, as the case may be, shall hand over the demand draft of Rs.60 lakhs to the petitioner on the first motion hearing of the divorce petitioner under Section 13-B of the Hindu Marriage Act.

(4) Rs.40 lakhs, which is deposited with the Registrar (General) of this Court, shall be released immediately to the petitioner on an order of finalization of the divorce petition under Section 13-B of the Hindu Marriage Act, being produced before the Registrar (General) of this Court.

(5) Both the parties shall withdraw all the case filed/registered against each other.

All the cases, as mentioned above, shall stand decided and disposed of within six months. Any delay in finalization of the various cases beyond six months from today, on account of non-payment, or time sought by the respondent(s) shall be subject to payment of 18% interest on the said amount, to be paid by the respondents to the petitioner.

The parties are bound by the statements made before this Court.

The above amount of Rs.2,25,00,000/- (Rs. Two crores twenty five lakhs only) is towards full and final settlement arrived at between the parties; maintenance of the petitioner and her minor daughters.

Neither of the parties shall make any further claim against each other.

18.12.2018
smriti

(NIRMALJIT KAUR)
JUDGE

Whether speaking/reasoned : Yes/No.
Whether Reportable : Yes/No