

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO.490 OF 2018

Rajinder Singh Malhotra ... Petitioner
Vs.
Geetanjali Sukhinder Malhotra and another ... Respondents

Ms K. H. Rajani i/b. Mr. Jaideep Thakkar for Petitioner.
Mr. Vishwanth Patil i/b. A. C. Havelikar for Respondent No.1.

CORAM : R. G. KETKAR, J.
DATE : MARCH 11, 2019

P.C. :

Heard Ms Rajani, learned Counsel for the petitioner and Mr. Patil, learned Counsel for the respondent No.1.

2. Mr. Patil states that Ms Geetanjali Sukhinder Malhotra, respondent No.1 is present in the Court. He has tendered photocopy of her Aadhar Card, which is taken on record and marked 'A' for identification. Upon taking instructions from her, he states that respondent No.1 will withdraw application dated 27.04.2018 made by her in M.P.No.F-396 of 2016 withdrawing her consent for dissolution of marriage by decree of mutual consent under Section 13(B) of the Hindu Marriage Act, 1955 (for short 'Act'). He further states that respondent No.1 has no objection for setting aside the order dated 27.04.2018 passed by the learned trial Judge thereby restoring M.P.No.F-396 of 2016 to its original position before the Family Court, Thane. Statements made by Mr. Patil, on instructions, are accepted.

3. Ms Rajani states that petitioner is present in the Court. She has tendered photocopy of his Aadhar Card, which is taken on record and marked 'B' for identification. The learned Counsel for the parties have tendered consent terms dated 11.03.2019 signed by the parties as also

their respective Advocate. The same is taken on record and marked 'C' for identification. Clauses (viii) and (x) of the consent terms read thus,

“viii) It is agreed and declared by both the parties that the Respondent shall file petition of quashing of FIR bearing no.02/2018 registered with Azad Nagar Police Station u/s 420 r/w 34 at her own expense and simultaneously also co-operate with the Petitioner and his POA for dissolving the marriage between her and the said Sukhvinder Malhotra before the Hon'ble Family Court Thane. The petitioner shall undertake to pay the legal charges for filing the Mutual consent Petition. It is agreed by the Petitioner that he on the date of passing of decree of divorce by mutual consent shall handover original notarized copy of the Affidavit of No objection for quashing FIR against her and her father to be filed before Division Bench of the Hon'ble court and shall duly personally be present before this Hon'ble court to give consent to quash the FIR as and when called for with 2 day prior intimation to avoid any delay. The Advocate for the Petitioner and Respondent shall mutually co-ordinate with each other for getting the matter listed before the bench considering the convenience of both the parties. After passing of decree of Divorce by Mutual consent, the Petitioner agrees to file letter before the Police Authorities in FIR no.2/2018 registered with Azad Nagar Police Station, informing them about the settlement between the parties and that he does not desire to proceed with the said FIR. However, it is further agreed that, if after passing of decree of divorce by the Hon'ble Family Court Thane, if the Petitioner does not co-operate in quashing the FIR then he will be liable for contempt proceedings.

x) It is agreed by the Respondent that in the event she commits any breach of the present consent terms, the Respondent undertakes to deposit of Rs.75.00 lakhs (permanent alimony) in the family court, thane within 15 days from the date of breach of consent terms. The petitioner shall not withdraw the said amount without prior directions/permission of this Hon'ble Court.”

4. The learned Counsel for the parties agree that simultaneously, they will file application for passing decree of divorce by mutual consent as also for quashing F.I.R.No.2 of 2018 registered with Azad Nagar Police Station under Section 420 read with 34 Indian Penal Code,

1860. The learned Counsel for the parties assure that within two weeks from today, aforesaid proceedings will be filed before the respective Courts.

5. In view thereof, the Contempt Petition is disposed of in terms of the consent terms. Application dated 27.04.2018 made by the respondent No.1 withdrawing her consent stands withdrawn. The order dated 27.04.2018 permitting the respondent to withdraw consent stands dissolved. M.P.No.F-396 of 2016 is restored to its original position. The parties shall file proceedings within two weeks from today for passing decree of divorce by mutual consent as also for quashing F.I.R. The learned Counsel for the parties assure that they will extend full co-operation for disposal of the proceedings as expeditiously as possible and preferably within four weeks from today. Liberty is reserved to the petitioner to apply for revival of Contempt Petition, if occasion arises. Order accordingly.

(R. G. KETKAR, J.)

Minal Parab