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

+ **CRL.M.C. 1164/2018 & CRL.M.A. 4241/2018**

PRATEEK KUTHIALA & ORS Petitioners

Through: **Mr. H. M. Mukherjee, Advocate**

versus

THE STATE GOVT OF NCT OF DELHI & ANR Respondents

Through: **Mr. Mukesh Kumar with IO ASI Anil
Pandey from CAW Cell (East).**

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

% **26.02.2020**

1. The present petition has been filed seeking quashing of the FIR No.176/2011 registered under Sections 498A/406/34 IPC, Police Station Pandav Nagar on the basis of settlement dated 18.11.2013 which was recorded in the order dated 18.11.2013 in W. P. (Crl.) 1540/2013. The order passed on the aforesaid date is reproduced below:

“Petitioner is present in court along with his counsel. Complainant is also present in court along with her brother. It is submitted that the parties are open for an amicable settlement. Accordingly, Ms.Priyanka Kapoor, Advocate, who is present in Court, is appointed as an Amicus Curiae in this matter to appear on behalf of the complainant. Matter was passed over once to enable the parties to work out the modalities for an amicable settlement. At the second call, parties submit that they have arrived at an amicable settlement, on the following terms:

(i) Parties have decided to part ways;

(ii) Parties shall jointly file a petition for grant of divorce by mutual consent (First Motion). The petition for grant of divorce by mutual consent (First Motion) shall be drafted and signed by the parties on 19.11.2013. The parties shall remain present before the trial court for recording of their statement in the First Motion;

(iii) The Second Motion will be filed by the parties after the expiry of the statutory period of six months is over. A draft petition for grant of divorce by mutual consent (Second Motion) will be exchanged by the parties at least fifteen days in advance;

(iv) Parties undertake to present themselves at the time of Second Motion. In case petitioner is not available at the time of Second Motion, an authorised representative, to whom the petitioner will give a power of attorney, will be available;

(v) Petitioner will pay a sum of Rs.10.00 lakhs to the complainant in full and final settlement towards her claims including alimony, dowry, istridhan and maintenance for the past, present and future;

(vi) Out of Rs.10.00 lakhs, the sum of Rs.5.00, which is stated to be deposited with the trial court by the petitioner, will be released in favour of the complainant at the time of making of statement in First Motion;

(vii) Upon making of statement in the First Motion and on payment of Rs.5.00 lakhs to the complainant, the passport of the petitioner shall be returned and the LOC, if any issued against the petitioner, shall be suspended till further orders from this Court;

(viii) As agreed, at the time of First Motion, the petitioner will hand over original title deeds of an unencumbered immovable property to the trial court towards security for making balance payment of Rs.5.00 lakhs. The trial court upon satisfaction will keep the title deeds of the property as security;

(ix) Rs.4.00 lakhs will be paid by the petitioner to the complainant at the time of making a statement in the Second Motion;

(x) The balance sum of Rs.1.00 lakhs will be paid by the petitioner to the complainant at the time of quashing of FIR;

(xi) Quashing petition will be filed within a period of two weeks from the date of grant of divorce. In case the petitioner does not file petition for quashing, he will still be liable to pay to the complainant the balance sum of Rs.1.00 lakh within two weeks from the date of grant of divorce;

(xii) After grant of decree of divorce all complaints, etc., shall be withdrawn by the complainant.

(xiii) All electricity dues and society charges, pertaining to the flat bearing no.427, Sector 12, Pocket I, Gangotri Apartment, Dwarka, shall be the responsibility and liability of the petitioner.

(xiv) The complainant undertakes to the Court that simultaneously upon receipt of all payments, she will vacate the abovesaid flat. The complainant has been explained the consequences of breach of undertaking given to Court.”

2. Learned counsel for the petitioner submits that the petitioner nos. 1 & 3 are represented through their father having SPA in his favour, a copy whereof has been place on record.

3. In the present proceedings, respondent No.2 was served and she appeared before this Court on 18.01.2019. On the aforesaid date, the respondent submitted that she had settled in her new marriage and was not residing in Delhi and requested the Court to record her statement on the same day as she did not want to come to the Court again. Accordingly, the matter was listed before the Registrar (Judicial) on the same day. Respondent No.2 appeared before the JR (Judicial) and her statement was recorded wherein she had stated that she had settled her all disputes with the petitioners in terms of Settlement dated 18.11.2013

and had received a sum of Rs.10,00,000/- along with interest for an amount of Rs.1,88,278/- totalling to an amount of Rs.11,88,278/-. It was further stated that she had received the entire settlement amount alongwith interest and that she had no objection to the quashing of the FIR No.176/2011 P.S. Pandav Nagar. The respondent did not appear thereafter.

4. As per the affidavit of service filed on behalf of the petitioner, it was stated that a copy of notice was sought to be served on the mother of the respondent no.2, who not only refused to accept the same but also did not disclose the whereabouts of the respondent no.2.

5. In view of the aforesaid facts and circumstances and also the fact that the respondent no.2 has already made a statement that she has no objection to the quashing of the FIR No.176.2011, the same is hereby quashed.

DASTI.

MANOJ KUMAR OHRI, J

FEBRUARY 26, 2020

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