

21

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 20th January, 2016

W.P.(CRL) 183/2016 & CRL.M.A. 1006/2016

SUMIT KUMAR & ORS

..... Petitioners

Through: Mr S.N.Gupta, Advocate.

versus

STATE (NCT OF DELHI) & ANR

..... Respondents

Through: Ms Kamna Vohra, Addl. Standing
Counsel (Crl.) with SI Jagmohan, PS-
Baba Haridas Nagar.

Mr B.S.Randhawa, Advocate for R-2.

**CORAM:
HON'BLE MR JUSTICE SIDDHARTH MRIDUL**

SIDDHARTH MRIDUL, J (ORAL)

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 seeking quashing of FIR No.109/2013 under Sections 406/498A/34 IPC registered at Police Station- Baba Haridass Nagar, Delhi and the proceedings arising therefrom.

2. The facts in brief are that the petitioner No.1 (husband) and respondent No.2/complainant (wife) were married to each other according to Hindu rites and customs on 26.04.2012. However, no child has been born out of the said wedlock. Due to temperamental and ideological differences between the parties to the marriage, they started living separately since June, 2012. On a complaint instituted by respondent no.2 (wife), the subject FIR was registered against the petitioner No.1 and his family members.

3. Counsel for the parties state that the outstanding matrimonial dispute between the parties to the union has been settled amicably before the Mediation Centre, Dwarka Courts, New Delhi on 30.04.2015. The salient terms of the said settlement dated 30.04.2015 are as follows:-

“1. That the defendant no. 1/wife Ms. Garima (for herself and also on behalf of other defendants) and the plaintiff/husband (for himself and also on behalf of other respondents) have amicably and without any force or coercion, resolved all their disputes in respect of present suit as well as above mentioned connected cases. It has been agreed between the defendant no. 1/wife Ms. Garima and plaintiff/husband Sh. Sumit Kumar that they shall seek divorce by mutual consent.

2. That the plaintiff/husband Sh. Sumit Kumar (For himself and also on behalf of other respondents) shall pay a total sum of Rs. 7,00,000/- (Rupees Seven Lakh only) alongwith articles as per the admitted list annexed hereto as Annexure 'B', duly signed by the parties hereto, towards full and final settlement of all claims of defendant no.1/wife Ms. Garima regarding dowry, stridhan, permanent alimony and maintenance (past, present and future), which the defendant no. 1/wife Ms. Garima has agreed to accept as such.

3. It has been agreed between the parties hereto that the settled sum of Rs. 7,00,000/- (Rupees Seven Lakh only) shall be paid by the plaintiff/husband Sh. Sumit Kumar to the defendant no. 1/wife Ms. Garima, by way of cash/DD in three installments, as per the following schedule:

- (i) 1st installment of Rs. 2,00,000/- (Rupees Two Lakh only) shall be paid at the time of recording of statement during first motion petition under Section 13(B)(1) of HMA, which shall be filed jointly by the parties i.e. defendant no. 1/wife and the plaintiff/husband, on or before 31.05.2015.

That, on the same day i.e. at the time of recording of statement during first motion petition under Section 13(B)(1) of HMA, the plaintiff/husband Sh. Sumit Kumar shall hand over to the defendant no.1/wife Ms. Garima,

all the articles (from Sr. Nos. 1 to 10) as per the admitted list annexed hereto as Annexure 'B', duly signed by the parties hereto, before the Hon'ble concerned Court.

That, on the same day, the defendant no. 1/wife Ms. Garima shall also handover to the plaintiff/husband Sh. Sumit Kumar, all the articles (from Sr. Nos. 1 to 4) as per the admitted list annexed hereto as Annexure 'A', duly signed by the parties hereto, before the Hon'ble concerned Court.

It is agreed between the parties hereto that the freight charges to bring the articles as per admitted list annexed hereto as Annexure 'B' by the plaintiff/husband Sh. Sumit Kumar shall be borne by Sh. Sumit Kumar, and the articles as per Annexure 'A' by the defendant no.1/wife Ms. Garima, at the time of recording of statement during first motion petition u/s 13(B)(1) of HMA before the Hon'ble concerned Court, shall be borne by Ms. Garima.

- (ii) 2nd installment of Rs. 2,50,000/- (Rupees Two Lakh Fifty Thousand only) shall be paid at the time of recording of statement during second motion petition under Section 13(B)(2) of HMA, which shall be filed within 15 days after expiry of minimum statutory period from the date of first motion petition u/s 13(B)(1) of HMA, as per law.

(iii) 3rd installment of Rs. 2,50,000/- (Rupees Two Lakh Fifty Thousand only) shall be paid at the time of recording of statement of complainant/wife in proceedings for quashing of FIR No. 109/13 u/s 498A/406/34 IPC, PS Baba Haridas Nagar, New Delhi, before the Hon'ble High Court of Delhi, against all the respondents in FIR No. 109/13.”

4. In a nutshell, it has been agreed by and between the parties to the union that respondent no. 2 (wife) shall be paid a sum of Rs.7 lakh towards all her claims *vis. a vis.* permanent alimony, stridhan, dowry articles, maintenance past, present and future etc. against the petitioners.

5. Counsel for the parties further state that pursuant to the said settlement between the parties to the union, a sum of Rs.4.5 lakh has already been received by respondent no.2 (wife). The balance sum of Rs.2.5 lakh has been brought to the Court in the shape of a bank draft bearing No.307580 dated 19.01.2016 drawn on Corporation Bank, Najafgarh, New Delhi, in favour of respondent no. 2(wife) herein. The respondent No.2 acknowledges receipt thereof subject to its encashment.

6. In the present case, it is observed that pursuant to the settlement arrived at between the parties to the union, a decree of divorce by mutual

consent dated 21.12.2015 has already been obtained by the parties from the concerned Family Court, Dwarka, New Delhi.

7. Respondent No.2/complainant (wife), who is present in Court and has been identified by the counsel representing her, states that in pursuance to the settlement arrived at between the parties to the union, she is no longer keen to proceed with the subject FIR and the proceedings emanating therefrom.

8. Since the dispute between the parties which arose out of a matrimonial discord between the petitioner No.1 and respondent no. 2 and resulted in the registration of the subject FIR, has been settled amicably before the Mediation Centre, Dwarka Courts, New Delhi by way of a settlement dated 30.04.2015 without any undue influence, pressure or coercion; as the parties have obtained decree of divorce by mutual consent on 21.12.2015; and the settlement between the parties is lawful, no useful purpose will be served by proceeding with the subject FIR and the proceedings arising therefrom.

9. Resultantly, the FIR No.109/2013 under Sections 406/498A/34 IPC registered at Police Station- Baba Haridass Nagar, Delhi and the proceedings arising therefrom are hereby set aside and quashed qua the petitioners subject to each of them depositing a sum of Rs.5,000/- with the Victims'

Compensation Fund within a period of two weeks from today. A copy of the receipt thereof shall be provided to the Investigating Officer in the subject FIR.

10. With the above said directions, the writ petition is allowed and disposed of accordingly.

JANUARY 20, 2016
mk

SIDDHARTH MRIDUL, J

