

(2020) 07 J&K CK 0097

In the Jammu And Kashmir High Court

Case No : Criminal Miscellaneous Case No. 267 Of 2017, SWP No. 1958 Of 2014,
Other Writ Petition No. 1221 Of 2014

Imtiyaz Ahmad Khan

APPELLANT

Vs

Hafsa Imtiyaz And Others

RESPONDENT

Date of Decision : 06-07-2020

Acts Referred:

Jammu And Kashmir Protection Of Women From Domestic Violence Act, 2010 —
Section 12

Jammu And Kashmir State Ranbir Penal Code, 1989 — Section 307, 342, 352, 354,
379, 403, 406, 498(A), 506

Code Of Criminal Procedure, 1898 — Section 561(A)

Code Of Criminal Procedure, 1973 — Section 482

Citation : (2020) 07 J&K CK 0097

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Advocate : Shafqat Nazir, S.A. Makroo

Final Decision : Disposed Off

Judgement

Rajesh Bindal, J

1. Learned counsel for the parties submitted that in view of settlement arrived at between them in the Mediation Centre of this Court, vide Settlement Deed dated 16.03.2020, the matter in dispute stands resolved as per the conditions detailed in the aforesaid settlement.

2. It was further submitted that in view of the aforesaid settlement, two cases pending in this Court bearing SWP No.1958/2014 and OWP No.1221/2014 will also stand disposed. It was further submitted that the following cases, which are pending in different Courts also stand settled in view of compromise.

1. "Imtiyaz Ahmad Khan versus Rehana Abdullah" pending before Munsiff, Anantnag (File No.23/Numbri),

2. "Rehana Abdullah versus Imtiyaz Ahmad Khan" pending before Chief Judicial Magistrate, Anantnag. (complaint under Section 12 of J&K Protection of Women from Domestic Violence Act),

3. "Rehana Akhter versus Saima Jan" pending before Judicial Magistrate Anantnag (complaint under Sections 354,379,352,506 RPC) File No.38/A1if,

4. "Rehana Abdullah versus Imtiyaz Ahmad Khan" pending before Judicial Magistrate Anantnag (complaint under Sections 403,406,379 RPC).

5. "State versus Imtiyaz Ahmad Khan" pending before Chief Judicial Magistrate, Anantnag, FIR No.14/2014 under Section 307, 342 and 498-A RPC.

3. Keeping in view the aforesaid stand taken by the learned counsel for the parties, present petitions are disposed of in terms of settlement arrived at between the parties in the Mediation Centre in this Court vide Settlement terms of settlement arrived at between the parties are below -

"The above titled case has been referred to me for mediation by Hon'ble High Court of J&K. In the mediation centre, negotiations were held in between the parties. Joint sessions as well as individual sessions were also held. Before the settlement in the case is recorded, the brief facts of the case need to be narrated: The parties viz. petitioner Imtiyaz Ahmad Khan & respondent Rehana Abdullah were husband and wife and out of the wedlock the respondent no. 2 Hafsa Imityaz has born. The relation between the parties got strained because of one reason or the other. In consequence thereof, the petitioner Imtiyaz Ahmad Khan pronounced divorce to respondent no. 2 on 29th May 2014. Immediately the parties filed litigations against each other both civil and criminal in nature. In one case filed by respondent no. 2 before the Court of Spl. Mobile Magistrate (Sub- Judge) Anantnag titled Hafsa Imityaz & anr V/s Imityaz Ahmad Khan, an order dated 26-07-2017 came to be passed granting maintenance in favour of respondents in the sum of Rs. 10000 each which came to be challenged before the court principal sessions judge Anantnag. However, the order passed by the trial court was upheld by this court on 25-10-2017.

The petitioner has challenged this order before the Hon'ble High court of J&K Srinagar by invoking provisions under section 561-A CrPC for quashing the order dated 26-07-2017 passed by the court of Spl. Mobile Magistrate (Sub Judge) Anantnag. It is this case which has been referred by the Hon'ble High Court for mediation. Besides the above case parties are locked in various litigations against each other. One challan bearing FIR no. 14/2014 under section 498-A RPC is sub-judice before CJM Anantnag. The FIR has been filed by the respondent no. 2 against petitioner. Similarly, complaint has been filed by respondent no. 2 against petitioner in the education department. Similarly case bearing OWP No. 1221/2014 titled Rehana Abdullah V/s State of Jammu & Kashmir is also sub-judice before the court. Complaint U/s 354,379,352,506 RPC filed by the respondent no. 2 is sub-judice before learned Judicial Magistrate Anantnag. Complaint under Domestic violence 2010 titled Hafsa Imityaz & anr. V/s Imityaz

Ahmad Khan is also Sub-judge before Chief Judicial Magistrate Anantnag. Execution application is also Sub-judge before Spl. Mobile Magistrate Anantnag (sub-judge). Similarly, SWP. No. 1958/2014 titled Imtiyaz Ahmad Khan V/s Jammu & Kashmir and others is also sub-judge before the Hon'ble High court of J&K. The settlement will be applicable to cases pending before the various Courts. After Hectic negotiations held in between the parties in the main mediation centre. The civic sense prevailed over the parties and therefore following settlement has been reached at in between the parties:-

"1. It is settled in between the parties that respondent no. 2 now acknowledges the divorce pronounced by the petitioner and as such matrimonial relation in between the parties have come to end. It is settled in between the parties that an amount of Rs. 98000 was outstanding an unpaid Mahreen towards respondent no. 2 and the petitioner has paid the same to respondent no. 2 through cheque no.644129 dated 16-03-2020 and the cheque has been received by the respondent no. 2 in the mediation centre and she acknowledges its receipt. It is settled in between the parties that petitioner henceforth will pay monthly maintenance in the sum of Rs. 9000 towards respondent no.1 out of which an amount of Rs. 7000 will be directly deposited in to the account of respondent no. 1 the girl child maintained by respondent no.2 her mother Rehana Abdullah while as an amount of 2000 will be deposited by way of recurring deposit in the account of respondent no.1. New recurring deposit account will be accordingly opened by the respondent no. 2 in the name of respondent no. 1 so that the amount gets deposited in her account till she attains age of majority. Further the maintenance of respondent no. 1 will be enhanced 5% yearly after respondent no.1 attains the age of 12years. The maintenance of amount shall be deposited by the petitioner in the back accounts of the respondent no.1 by or before 10th day of every month starting from April, 2020. In addition to this maintenance the petitioner shall also bear the marriage expenses of respondent no. 1 and marriage shall be arranged after consultation with each other. It is settled in between the parties that there was some past maintenance outstanding against petitioner which has been admitted by the petitioner to be the amount of Rs. 50000 till date. This amount has been paid by the petitioner through Post dated cheque bearing No.644130 dated 27-03-2020 and she acknowledges its receipt. It is settled in between the parties that during the course of litigation the respondent no. 2 has incurred certain liabilities in the shape of litigation charges etc and after negotiations; the petitioner has agreed to pay an amount of Rs.4.50 lacs in lumpsum in two instalments towards the respondent no. 2. For the payment of this amount the petitioner has issued two post dated cheques in favour of respondent no. 2. The petitioner has paid Rs. One lac through post dated Cheque to the respondent no. 2 bearing cheque no. 644131 dated 24-03-2020.

2. The petitioner has paid Rs. One lac through post dated Cheque to the respondent no. 2 bearing cheque no. 644131 dated 24-03-2020 an amount of Rs. 3.50 lacs through post dated cheque no. 644130 dated 20-04-2020. The

cheques have been received by respondent not. 2 in the mediation centre today and she acknowledges the receipt of these cheques. It is settled in the between the parties since the parties have made settlement and as such all the disputes which were existing in between the parties have been resolved and as such the parties will withdraw all the cases against each other as enumerated above in the settlement. The parties will file the compromise in such cases where ever, the same is required and will also make statements for withdrawing such cases before the courts where ever, the same is required so that all the litigations filed against each other will come to end and the parties will live in peace. Henceforth parties will not resort for any kind of litigation against each other.

It is settled in between the parties that the petitioner who is the father of respondent no. 1 shall be having visiting rights for the respondent no.1. The respondent no. 2 shall allow to go the respondent no. 1 with petitioner once in a month for full day i.e. any Sunday of the month.

Besides the petitioner shall be entitled to meet the respondent no. 1 her daughter in school and for the same the respondent no.2 shall be having no objection.

The parties have put forth their signatures unto this agreement in presence of their counsels."

4. In view of the aforesaid settlement, learned counsels for the parties submitted that following cases which have been initiated by the wife namely Rehana Abdullah and are pending in the Courts below, may be treated as withdrawn :

A. "Rehana Abdullah versus Imtiyaz Ahmad Khan" pending before Chief Judicial Magistrate Anantnag (complaint under Section 12 of J&K Protection of Women from Domestic Violence Act).

B. "Rehana Akhter versus Saima Jan" pending before Judicial Magistrate Anantnag (complaint under Sections 354,379,352,506 RPC) File No.38/Alif.

C. "Rehana Abdullah versus Imtiyaz Ahmad Khan" pending before Judicial Magistrate Anantnag (complaint under Sections 403,406,379 RPC), shall stand withdrawn without any further action on behalf of complainant therein.

5. It was further agreed upon that the case titled as "Imtiyaz Ahmad Khan versus Rehanna Abdullah" (File No.23/Numbri) filed by petitioner and pending in the Court of Munsiff, Anantnag may be treated as withdrawn in view of aforesaid settlement arrived at between the parties.

6. Ordered accordingly.

7. The case titled "State versus Imtiyaz Ahmad Khan" pending in the Court of Chief Judicial Magistrate, Anantnag, is a result of registration of FIR No. 14/2014 under Sections 307, 342 and 498-A RPC by the wife against the husband and family members.

8. As all the matrimonial disputes between the parties have been resolved in the Mediation Centre in this Court, invoking extraordinary jurisdiction under Section 482 Cr. P.C., taking suo-moto cognizance, the aforesaid FIR and further proceedings therein, stand quashed. The aforesaid power has been exercised by this Court keeping in view the fact that the parties, who have amicably resolved their dispute, should not be put to more onerous trouble to move further applications before this Court and the courts below where other cases are pending. Once the warring parties have decided to put an end to their disputes, it is better to resolve them at the earliest and don't let them be face to face again in the process to get other pending matters resolved in terms of final settlement arrived at. Another reason to exercise this extra-ordinary power at this stage is also that we are passing through a ver y difficult time bec ause of COVID - 1 9 Pande mic and at this time leaving the parties to move fro m one place to another or file applications, will not only expose them to virus but also put the m to avoidable expense . For quashing the proceeding in matri monial cases, reference can be made to judgments of Hon'ble the Supreme C ourt in B . S . Joshi and ors . Vs . State of Haryana and Anr . reported as (2003) 4 SCC 675 and Narinder Singh and others Vs . State of Punjab & Others reported as (2014) 6 SCC 466 .

9. The copy of the order passed today shall be sent to the Courts concerned to be placed on the record of the files of the aforesaid cases and treat them as disposed of in view of aforesaid stand taken by learned counsel for the parties.

10. However, it is made clear that either of the parties shall be entitled to move application in these proceedings in case the terms of settlement are not adhered to by either of them.

11. The present petitions are disposed of accordingly. Registry to comply with the directions issued and the learned courts below to take action as directed.