

(2017) 10 DEL CK 0361

In the Delhi High Court

Case No : Criminal Writ Petition No. 2886 Of 2017

Siddhartha Jain & Ors

APPELLANT

Vs

State Nct Of Delhi & Anr

RESPONDENT

Date of Decision : 13-10-2017

Acts Referred:

Constitution Of India, 1950 — Article 226
Code Of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 34, 406, 498A
Protection of Women from Domestic Violence Act, 2005 — Section 12
Hindu Marriage Act, 1955 — Section 9, 13(1)(ia)

Citation : (2017) 10 DEL CK 0361

Hon'ble Judges : Vinod Goel, J

Bench : Single Bench

Advocate : Pradeep Bhardwaj, R.S. Kundu, Prem Sagar, Bhagat Singh

Final Decision : Disposed Of

Judgement

Vinod Goel, J

CRL. M.A. 16766/2017 (Exemption)

Exemption is granted subject to all just exceptions.

Application stands disposed of.

W.P.(CRL) 2886/2017

1. Notice.

2. Ld. Additional Standing Counsel Mr. R.S. Kundu accepts notice. Mr. Kundu through IO submits that the charge sheet has not been filed.

3. Notice be issued to the respondent No. 2. Respondent No. 2 is present in person and accepts notice. She is duly identified by the IO W/SI Roshni.

4. The petitioners have invoked the writ jurisdiction of this court under Article

226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (in short "Cr.PC") for quashing of the FIR bearing No.28/2016, registered against them on 09.03.2016 under Sections 498A/406/34 IPC with Police Station Crime (Women) Cell, Nanak Pura, New Delhi on the complaint of respondent No. 2.

5. The marriage of the petitioner no. 1 with the respondent no. 2 was solemnized on 07.07.2011 as per Hindu rites and ceremonies in Delhi. However, out of this wedlock, no child was born.

6. After solemnization of their marriage, the petitioner no. 1 and the respondent no.2 started residing together in the matrimonial home. Due to some temperamental differences between the petitioner no. 1 and the respondent no.2, they could not reconcile with each other. Resultantly, the respondent no.2 left the matrimonial home on 14.12.2014 and started residing separately with her parents.

7. The respondent No.2 lodged a complaint against the petitioner no. 1 before the CAW Cell which culminated into the said FIR. She preferred a

petition under Section 12 of The Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as the "DV Act") against the

petitioners. The respondent No. 2 has also filed a petition for restitution of conjugal rights under Section 9 of the Hindu Marriage Act, 1955

(hereinafter referred to as the "HMA"). The petitioner No. 1 filed the petition for divorce on the ground of cruelty against the respondent No. 2

under Section 13(1)(ia) of HMA, 1955.

8. On 19.12.2016, the parties had amicably resolved and settled all their disputes. The settlement/compromise was reduced to writing. By this

settlement, the petitioner and the respondent no. 2 had decided to part company of each other and obtain a decree of divorce by mutual consent from

the competent Court. The petitioner had also agreed to pay a total sum of Rs. 2,50,00,000/- to the respondent no. 2 in full and final settlement of her all

claims, which includes maintenance, permanent alimony and costs of dowry and stridhan articles. Both the parties have also agreed to withdraw their

respective petitions from the Courts.

9. The respondent No.2 states that she had voluntarily settled and resolved all her disputes with the petitioners without any force and coercion.

10. It is submitted that the petitioner no. 1 had paid a sum of Rs.1.25 crores to

the respondent No. 2 at the time of recording the statement of the parties in the first motion before the Court of learned Principal Judge, Family Court, Saket(South), New Delhi. Further, a sum of Rs.75 lakhs was paid by petitioner No. 1 to respondent No. 2 at the time of recording the statement of parties in the second motion before the Court of learned Principal Judge, Family Court, Saket(South), New Delhi. A decree of divorce by mutual consent was granted on 01.08.2017 by the court of learned Principal Judge, Family Court, Saket(South), New Delhi, by which the marriage between the petitioner and the respondent no. 2 was dissolved. Respondent No. 2 states that she had withdrawn her petition under Section 9 of HMA, 1955. She submits that she had also withdrawn her petition under Section 12 of DV Act. The petitioner also submits that he had withdrawn his petition for divorce filed on the ground of cruelty against the respondent No. 2.

11. Today, the petitioner No. 1 has handed over demand draft No. 211130 dated 08.09.2017 issued by YES Bank, Chanakya Puri, New Delhi to respondent No. 2 for Rs.50 lakhs which has been accepted by respondent No. 2.

12. The respondent no. 2 submits that she has received the entire settlement amount from the petitioners. She submits that in view of the settlement, she does not want to pursue the said FIR and submits that the said FIR may be quashed.

13. Both the parties submit that now nothing is due and recoverable by them against each other. Since the parties have amicably settled all their disputes, no fruitful purpose would be served in further pursuing the said FIR. Hence, to secure ends of justice, the FIR bearing No.28/2016, registered on 09.03.2016 with Police Station, Crime (Women) Cell, Nanak Pura, New Delhi under Sections 498A/406/506 IPC and consequential proceedings arising out of the said FIR are hereby quashed.

14. The petition is disposed of accordingly.

15. DASTI.