

(2012) 03 DEL CK 0522

Delhi High Court

Case No: Criminal M.C. 1034 of 2012

Manoj Kohli and Others

APPELLANT

Vs

State and Another

RESPONDENT

Date of Decision: March 23, 2012

Acts Referred:

- Penal Code, 1860 (IPC) - Section 34, 406, 498A

Hon'ble Judges: Suresh Kait, J

Bench: Single Bench

Advocate: P.S. Singh and Mr. Manish Singh, for the Appellant; Rajdipa Behura, APP for State/R1 and Mr. Vivek Singh, for R-2, for the Respondent

Final Decision: Allowed

Judgement

Suresh Kait, J.

Crl. M.A. No. 3659/2012 (exemption)

Exemption is allowed subject to just exceptions.

Criminal M.A. stands disposed of.

Crl. M.C. 1034/2012

1. Notice issued. Ld. APP accepts notice on behalf of the State/R1.

2. Mr. Vivek Singh, Adv. accepts notice on behalf of respondent No. 2.

3. Vide the instant petition, petitioner has sought to quash FIR No. 89 dated 02.06.2010 registered at PS-CAW Cell, Nanak Pura, New Delhi for the offences punishable u/s 498A/406/34 Indian Penal Code, 1860 against the petitioners on the complaint of respondent No. 2

4. Ld. Counsel for the petitioners submits that vide settlement dated 14.05.2011, respondent No. 2 has settled all the issues qua the aforesaid FIR against the

petitioners. In pursuance to the said settlement petitioner No. 1 had agreed to make a payment of Rs. 5,00,000/- to respondent No. 2 towards full and final settlement. To this effect, petitioner No. 1 and respondent No. 2 made a joint statement before Family Court, Dwarka, New Delhi.

5. Ld. Counsel for the petitioners further submits that out of the aforesaid settlement amount of Rs. 5,00,000/- , Rs. 4,00,000/- has already been received by respondent No. 2 and Rs. 1,00,000/- has been handed over to respondent No. 2 by way of Bankers Cheque bearing No. 087753 dated 03.02.2012 drawn on State Bank of India, Sector-23, Dwarka New Delhi.

6. It is submitted that since the matter has been settled and respondent No. 2 has received the entire settlement amount, instant petition may be allowed.

7. Respondent No. 2 is personally present in court with her Counsel namely Mr. Vivek Singh, ASI Jaswant Singh, PS-Nanak Pura, present in Court, has identified her as respondent No. 2.

8. Ld. Counsel for respondent No. 2 on instruction submits that respondent No. 2 has settled all the issues qua the aforesaid FIR and she has received the entire settlement amount i.e. Rs. 5,00,000/- without any protest. Even the marriage between petitioner No. 1 and respondent No. 2 has been dissolved vide Decree of Divorce dated 05.01.2012. Therefore, she is no more interested to pursue the case further against the petitioners. If the FIR referred above is quashed, she has no objection.

9. Ld. APP on the other hand submits that charge-sheet is being prepared and yet to be filed. She further submits that if this Court is inclined to quash the FIR referred above, heavy costs be imposed upon the petitioners as in this process, Govt. machinery has been pressed into.

10. Keeping in view the settlement, joint statement dated 05.01.2012 made before the Family Court, Dwarka, dissolution of marriage between petitioner No. 1 and respondent No. 2, statement of respondent No. 2, who is no more interested to pursue the case further against the petitioners, and in the interest of justice, I quash FIR No. 89 dated 02.06.2010 registered at Nanak Pura.

11. However, I find force in the submission of Ld. APP on costs. Therefore, I direct petitioner No. 1 to pay a sum of Rs. 25,000/- as cost in favour of Delhi High Court Legal Services Committee, within 02 weeks from today with intimation to SHO concerned. Proof of the same shall be placed on record. Concerned SHO shall ensure the timely deposition of costs.

12. Accordingly, Crl. M.C. 1034/2012 is allowed. Since the main petition is allowed, Crl. M.A. 3658/2012 (Stay) become infructuous and disposed of as such.