

Archana Kumari vs Aman Kumar on 9 January, 2020

Bench: A.M. Khanwilkar, Dinesh Maheshwari

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IN THE SUPREME COURT OF INDIA
CIVIL/CRIMINAL ORIGINAL JURISDICTION

TRANSFER PETITION(CIVIL) NO.2235/2018

ARCHANA KUMARI

PETITIONER (

VERSUS

AMAN KUMAR

RESPONDENT (

WITH

TRANSFER PETITION (CRL.) NOS. 440-441/2019

AMAN KUMAR

PETITIONER (

VERSUS

ARCHANA KUMARI & ANR. ETC.

RESPONDENT (

O R D E R

1. This Court by its order dated 23.08.2019 directed the parties to appear before the Supreme Court Mediation Centre for resolution of their matrimonial disputes.

2. We are informed by the counsel for the parties that the parties, who are present in Court today, have amicably settled all the disputes and have reduced the settlement terms into writing in the form of Settlement Agreement, which reads thus:

SETTLEMENT AGREEMENT “This Settlement Agreement is entered into between Ms. Archana Kumari W/o Mr. Aman Kumar D/o Shri Murari Prasad, R/o Opp. Narmada Apartment, Dam Side Road No. 2, Kanke Road, Ranchi, Jharkhand (hereinafter referred to as the ‘First Party’) and Mr. Aman Kumar S/o Late Amar Nath Gupta, R/o Opp. R.N. Enclave, Kanti Factory Road, Mahatma Gandhi Nagar Kankarbagh, P.S. Patrakar Nagar, Town and District Patna, Bihar (hereinafter referred to as the ‘Second Party’).

The marriage between the parties to the Settlement Agreement was solemnized as per Hindu rites and customs at Bodhgaya, Bihar on 07.06.2015. That out of the said

wedlock there is one female child, namely 'Vaidarbhi Barnwal' aged about two year six months, born on 20.04.2017. Irreconcilable differences between the parties have caused the irremediable breakdown of their marriage and they separated on or about 14.03.2018 and since then have been living separately.

That vide order dated 23.08.2019 passed by Hon'ble Mr. Justice A.M. Khanwilkar and Hon'ble Mr. Justice Dinesh Maheshwari, this matter was referred to the Supreme Court Mediation Centre.

That comprehensive mediation sessions collectively as well as separately were held between the parties on 27.09.2019 and today i.e. 14.11.2019 and the parties have voluntarily entered into a final settlement agreement on the following terms & conditions:-

The Settlement Agreement arrived between the parties are as under:-

1. Both the parties hereto confirm and declare that they have, voluntarily and of their own free will have decided not to live together as husband and wife and have arrived at this Settlement in the presence of the Mediator. Both the parties have decided to part ways by divorce through mutual consent for which the parties through their Advocates shall file appropriate application(s) before the next date of hearing in the Transfer Petition (C) No. 2235/2018 pending adjudication before the Hon'ble Supreme Court.
2. The parties shall jointly request and pray for divorce by mutual consent under Article 142 of the Constitution of India before Hon'ble Supreme Court of India. In case the same is not granted by Hon'ble Supreme Court, the parties will file petition for divorce by mutual consent before the Family Court, Ranchi, Jharkhand immediately after such non-grant by the Hon'ble Supreme Court.
3. In case the Hon'ble Supreme Court grants Divorce under Article 142 of the Constitution of India, the Second Party shall pay an amount of Rs. 8,00,000/- (Rupees Eight Lakh Only) to the First Party in her name "Archana Kumari" by way of demand draft as full and final settlement on account of her stridhan, maintenance, alimony past present and future. This amount to be paid by the Second Party to the First Party includes the pending arrears of maintenance.
4. In case of non grant of decree of divorce by way of mutual consent under Article 142 of the Constitution by the Hon'ble Supreme Court, the payment of Rs. 8,00,000 (Rupees Eight Lakh Only) shall be made as follows:

(A) Payment of Rs. 4,00,000/- (Rupees Four Lakh Only) before the Family Court, Ranchi, Jharkhand during the First Motion proceedings u/s 13-B of Hindu Marriage Act, 1955. The demand draft should be made in the name of Archana Kumari.

(B) Payment of balance Rs. 4,00,000/- (Rupees Four Lakh Only) before the Family Court, Ranchi, Jharkhand at the time of obtaining decree of divorce by way of mutual consent in Second Motion proceedings u/s 13-B of Hindu Marriage Act, 1955. The demand draft should be made in the name of Archana Kumari.

5. That the parties to the agreement agree and undertake to withdraw all the cases/FIR/Complaints etc. or any other civil or criminal case pending against each other and their family members in any Court of law or forum in India. The description of the cases as given as under:-

i. Original Maintenance Case No. 272 of 2018 titled Archana Kumari & Anr. Vs. Aman Kumar pending before the Principal Judge, Family Court Ranchi, Jharkhand.

ii. Matrimonial Case No. 980 of 2018 titled as Aman Kumar Vs. Archana Kumari under Section 13 (1)(a) of the Hindu Marriage Act, pending before Family Court, Patna, Bihar.

iii. G.R. Case No. 2362 of 2018 arising from Gonda Ranchi P.S. FIR No. 45 of 2018 titled State Vs. Aman Kumar & Anr. pending before the Court of Judicial Magistrate, Ranchi, Jharkhand.

iv. Transfer Petition (Crl.) No. 440 – 441 of 2019 titled Aman Kumar Vs. Archana Kumari & Anr. pending before this Hon'ble Court.

6. Both parties agree that the First Party will have permanent custody of daughter namely Vaidarbhi Barnwal.

7. However, the father, Second Party shall be entitled to have visitation rights to the child. The Second Party will meet the child with prior intimation to the First Party at the convenience of the child.

8. It is also agreed that both parties shall conduct themselves in proper manner and treat each other with dignity and shall not speak ill or cast any aspersions about each other.

9. Both the parties agree and undertake that they have settled all their disputes and grievances amicably against each other and against their family members. Further, they shall not file any proceedings, whether criminal or civil, against each other or their family members in any forum or stake any claim on the movable or immovable, joint or ancestral, self acquired or HUF properties of the either party or their family.

10. Both the parties undertake that henceforth they will not file any civil/criminal complaint or any case against each other or their family members with regard to the present matrimonial alliance/dispute.

11. By signing this Agreement the parties hereto solemnly state and affirm that they have no further claims or demands against each other and all the disputes and differences have been amicably settled by the parties hereto through the process of Mediation.

12. The parties undertake before this Hon'ble Court to abide by the terms and conditions set out in the above mentioned Agreement, which have been arrived without any coercion, duress or collusion and undertake not to raise any dispute whatsoever henceforth.

13. Terms of Settlement agreement have been read over and explained in detail to both the parties in English and vernacular language in the presence of their respective Counsels present today during mediation.

That the parties are accordingly signing this settlement agreement in presence of all named above, to authenticate their will to comply the same as agreed above.

Sd/-
(Archana Kumari)
Petitioner-wife/First Party

Sd/-
(Aman Kumar)
Respondent-husband/Second Party

Sd/-
(Gaurav Agarwal)
Advocate for the Petitioner

Sd/-
(Nirmal Kumar Ambastha)
Advocate for the Respondent

Sd/-
[Suresh Kumari]

Mediator
Supreme Court of India

Date: 14th November, 2019"

3. A formal joint application (I.A.

No.5135/2020) has been moved by the counsel for the parties for disposing of the transfer petitions and all proceedings pending between them on terms and conditions specified hereinabove, as recorded in the Settlement Agreement.

4. As per settlement arrived at between the parties, a demand draft amounting to Rs.8,00,000/- (Rupees Eight Lakhs Only) has been handed over by the husband-Aman Kumar to the wife-Archana Kumari today in the Court.

5. Having regard to above, we are satisfied that the settlement entered into between the parties on 14.11.2019 deserves to be accepted and so also the prayer made for a decree of divorce by mutual consent in exercise of our powers under Article 142 of the Constitution of India.

6. We, accordingly, grant the decree of divorce by mutual consent to the petitioner-wife (Archana Kumari) and respondent-husband (Aman Kumar) in Transfer Petition No.2235/2018. The undertakings given by the respective parties as noted in the settlement dated 14.11.2019 are accepted. Accordingly, the marriage between Archana Kumari and Aman Kumar solemnized on 07.06.2015 stands dissolved in terms of the aforesaid Settlement Agreement.

7. In view of above, (i) Original Maintenance Case No. 272 of 2018 titled 'Archana Kumari & Anr. Vs. Aman Kumar' pending before the Principal Judge, Family Court Ranchi, Jharkhand, (ii) Matrimonial Case No. 980 of 2018 titled 'Aman Kumar Vs. Archana Kumari' under Section 13 (1)(a) of the Hindu Marriage Act, pending before Family Court, Patna, Bihar and

(iii) G.R. Case No. 2362 of 2018 arising from Gonda Ranchi P.S. FIR No. 45 of 2018 titled 'State Vs. Aman Kumar & Anr.' pending before the Court of Judicial Magistrate, Ranchi, Jharkhand shall stand withdrawn to this Court and are quashed/disposed of.

8. We record and accept the undertaking given by the parties that the parties shall abide by the terms and conditions incorporated in the aforesaid Settlement Agreement and shall not initiate any further civil or criminal case against each other and/or their family members with regard to the matrimonial alliance.

9. Resultantly, Transfer Petition (Civil) No. 2235/2018 and Transfer Petition (Crl.) Nos. 440-441/2019 are disposed of in the aforementioned terms.

10. We express a word of appreciation for the sincere efforts put in by Ms. Suresh Kumari, learned Mediator, who facilitated the parties to settle the matters in the above terms.

.....,J.

(A.M. KHANWILKAR)J.

(DINESH MAHESHWARI)

NEW DELHI
JANUARY 09, 2020

ITEM NO.31

COURT NO.6

SECTION XVI-A

S U P R E M E C O U R T O F
RECORD OF PROCEEDINGS

I N D I A

Transfer Petition(s) (Civil)

No(s).

2235/2018

ARCHANA KUMARI

Petitioner(s)

VERSUS

AMAN KUMAR

Respondent(s)

(FOR ADMISSION and IA No.184185/2018-EX-PARTE STAY and IA No.184718/2018-EXEMPTION FROM FILING O.T. IA No. 184185/2018 - EX-PARTE STAY) WITH T.P.(Crl.) No. 440-441/2019 (XVI-A) (FOR ADMISSION and I.R. and IA No.127315/2019-STAY APPLICATION and IA No.127317/2019-EXEMPTION FROM FILING O.T.) Date : 09-01-2020
These matters were called on for hearing today. CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR HON'BLE MR. JUSTICE DINESH MAHESHWARI For Petitioner(s) Mr. Gaurav Agrawal, AOR Mr. Nirmal Kumar Ambastha, AOR Ms. Ashmita Bisarya, Adv.

For Respondent(s) Mr. Nirmal Kumar Ambastha, AOR Ms. Ashmita Bisarya, Adv.

UPON hearing the counsel the Court made the following O R D E R Transfer petitions and pending applications are disposed of in terms of the signed order.

(NEETU KHAJURIA)
COURT MASTER

(VIDYA NEGI)
COURT MASTER

(Signed order is placed on the file.)