

Shruti Kakar And Ors vs Kapil Kakar on 17 September, 2022

Author: Subramonium Prasad

Bench: Subramonium Prasad

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IN THE HIGH COURT OF DELHI AT NEW DELHI

CRL.REV.P. 23/2021 & CRL.M.A. 1275/2022

SHRUTI KAKAR AND ORS.

..... Petitioners

Through: Ms. Vandana Kejriwal, Advocate

versus

KAPIL KAKAR

..... R

Through: Ms. Puja Shrivastava, Adv

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% 17.09.2022

1. It is stated by the learned Counsel for the Respondent/husband that a settlement agreement dated 02.07.2022 has been entered into between the parties before Delhi Mediation Centre, Saket. The settlement agreement dated 02.07.2022 along with other documents filed by the Respondent have been handed over during the course of hearing and the same are taken on record. The settlement agreement reads as under:

"The present case has been referred by the court of Ms. Tarunpreet Kaur, learned MM (Mahila Court). Saket Courts, New Delhi.

Whereas the complainant/Wife Shruti Kakar (hereinafter referred to as the First Party) was married to respondent Kapil Kakar (hereinafter referred to as the Second Party) on 19.06.1998 according to Hindu rites and ceremonies. Two children/daughter, namely, Ira Kakar and Inika Kakar, aged about 16 years and 14 years respectively were born from the said wedlock. Due to matrimonial disputes, the parties could not stay together and started living separately from each other since May 2016.

And whereas on the request of the parties, the present matter was referred for mediation, in which process of mediation is explained to both the parties. Single and joint sessions were held. After discussions both parties have agreed to settle all their disputes in full and final on the following terms and conditions :

1. It is agreed between the parties that since there is no chance of their re-union, they will part their ways by seeking decree of divorce by mutual consent.

2. It is agreed between the parties that second party/respondent shall pay total amount of Rs 20,00,000/- (Rs. Twenty lacs only) to the first party/complainant in five installments, by way of DD/NEFT/RTGS and the jewellery items amounting Rs. 4,00,000/- (including one gold set from groom side) towards full and final settlement of all her claims including maintenance (past, present and future), permanent alimony and istridhan etc., however, no right of children shall be affected by the settlement.

3. It is further agreed between the parties that complainant wife shall withdraw the present matter u/s 12 of DV Act by 31.07.2022 and further out of the above-mentioned settled amount sum of Rs.4,00,000. (Rs Four lacs Only shall be paid by the second party husband to the first party wife at the time of withdrawal of present matter U/s 12 of DV Act.

4. It is further agreed between the parties that complainant wife shall withdraw the Revision Petition (Crl) No 23/2020, titled as Shruti kakar & Ors Vs Kapil Kakar pending before the Hon'ble High Court of Delhi by 30.11.2022 and further out of the above-mentioned settled amount, sum of Rs 4,00,000/-

(Rs. Four lacs Only) shall be paid by the second party/husband to the first party/wife at the time of withdrawal of above- mentioned Revision Petition (Crl.) No.23/2020.

5. It is further agreed between the parties that complainant/wife shall withdraw the Divorce Petition bearing HMA No.223/2018, titled as Shruti kaker Vs Kapil Kakar before the learned Family Court, Saket Courts, New Delhi by 28.08.2022.

6. It is also agreed between the parties that both the parties shall file the second motion on or before 31.08.2022 as the first motion of mutual divorce petition has already been granted vide its order dated 23 January, 2018 by the Hon'ble Family Court. As stated by both the parties that due to some reasons wife moved an application before the Family Court to withdraw her statement given before the learned Family Court for first motion and husband filed a contempt petition against the wife in the same court Both the application shall be withdrawn by both the parties before filing the second motion petition and further, out of the above-mentioned settled amount, sum of Rs.4,00,000/- (Rs. Four lacs Only) shall be paid by the second party/husband to the first party/wife at the time of statement for second motion divorce petition. Both the parties shall co-operate with each other in preparation of petition for divorce by mutual consent.

7. It is further agreed between the parties that complainant/wife shall withdraw the Partition suit bearing I.P.A. No.13/2018, titled as " Ira kakar & Anr. Vs Kapil Kakar before the Hon'ble High Court of Delhi by 22.09.2022 and further, out of the above- mentioned settled amount, sum of Rs. 4,00,000/- (Rs.

Four lacs Only) shall be paid by the second party/husband to the first party/wife at the time of withdrawal of above-mentioned Partition suit bearing I.P.A. No.13/2018. 2. 4 it is further agreed between the parties that complainant/wife shall withdraw the M.T. No. 103/2018, titled as "Shruti kakar Vs Kapil Kakar"

before the learned Family Court, Saket Courts (South- East), New Delhi U/s 125 Cr.P.C. by 18.10.2022 and further, the balance amount of Rs. 4,00,000/- (Rs, Four lacs Only) shall be paid by the second party/husband to the first party/wife at the time of withdrawal of above-mentioned M.T. No. 103/2018.

8. It is also agreed between the parties that the above-mentioned jewellery shall be handed over to wife/complainant alongwith the last installment.

9. It is further agreed between the parties that both the parties shall have the joint custody of children/daughter, namely, Ira kakar and Inika Kakar. It is also agreed between the parties that children shall reside with the parties as per their wishes but their stay should not be compromised for the sake of studies.

10. It is also agreed between the parties that the husband shall ensure that at least Rs.16,00,000/- Lac is Paid against four cases withdrawn before 31 October on mutually decided withdrawal dates. In case if it exceeds beyond 31st October, 2022, Husband shall pay 1% rate of Interest Per Month on the remaining/ balance amount, however the same should not be extended beyond December 2022.

11. That it has been agreed between the parties that from the date of settlement, husband shall pay Rs. 7,500/- per month to each daughter (amounting to Rs. 15,000/- for both the daughters) till the time they attain majority for their personal expenses. The elder daughter will attain the majority on 14.12.2023 and the younger daughter will attain majority on 28th October, 2025. The said money will be transferred by husband to the wife's bank account.

12. That it is agreed between the parties that all the educational expenses of both the daughters within India will be borne by the husband. If the daughters wish to pursue their studies abroad after 12th/Graduation, husband shall support and sponsored them as per his financial capability/affordability.

13. It is agreed between the parties that the marriage expenses of both the daughters will be borne by the husband conditions/capability and affordability.

14. It is agreed between the parties that the expenses related to the cloths and other articles which are necessary for the upbringing of daughters will be borne by the father/husband subject to his consent and earnings. Husband also agreed that he shall make online payments of articles requested by both the daughters for their purchases (in which father/husband has consent).

15. That the husband has purchased a term policy for of ICICI Pru Protect Smart Rs.1 cr. bearing No. 66493292 wherein the both the daughters are nominee and shall remain nominees.

16. It is agreed between the parties that after entering this Deed of settlement both the parties shall move an application before the family court for withdrawal of their pending application in divorce petition bearing HMA No.223/2018 and file second motion petition for divorce by mutual consent.

17. It is also agreed by the parties that upon compliance of the above- mentioned terms and conditions of this settlement, parties will not file any civil/criminal case pertaining to their marriage and/or with regard to their respective movable or immovable property/properties, whatsoever.

18. It is also agreed between the parties that pursuant to the settlement reached between the parties, all the matters, which are pending between the parties before any court shall be deemed to have been settled post signing of this settlement.

This settlement has been voluntarily arrived at between the parties with their own free will and without any force, pressure or coercion and both the parties are bound by the terms and conditions mentioned herein above."

2. It is further stated by the learned Counsel for the Respondent/husband that in compliance of the settlement agreement, the petition under the DV Act, being CT No.6965/2018, has been withdrawn. It is further stated that the petition under Section 125 of the Cr.P.C, being MT No.103/2018, from which the instant Revision Petition arises, has also been withdrawn on 01.09.2022. She further states that in compliance of the settlement agreement, the parties have taken steps to dissolve the marriage. It is stated that the first motion has already been passed and a joint application for second motion has been filed and the orders are awaited. It is further stated that out of Rs.20,00,000/- which was due and payable, a sum of Rs.8,00,000/- has already been paid to the Petitioner herein and a sum of Rs.4,00,000/- would be paid to the Petitioner/wife on 22.09.2022. It is further stated that the sum of Rs.4,00,000/- would be paid at the time of second motion and the balance sum of Rs.4,00,000/- would be paid on the day when the instant Revision Petition would be withdrawn.

3. It is pertinent to mention that apart from the said sum of Rs.20,00,000/- jewellery worth Rs.4,00,000/- (including one gold set from groom side) is also to be given as a part of the settlement agreement. Both the parties are directed to be present on the next date of hearing to satisfy this Court regarding return of the abovementioned jewellery.

4. The Trial Court hearing HMA No.223/2018 is requested to expedite the hearing and conclude the proceedings within 15 days from today.

5. Learned Counsel for the Petitioner/wife states that even though the parties have entered into a settlement, the right to claim maintenance further continues and her principle contention is that a sum of Rs.20,00,000/- is not just and fair compensation considering the status of the parties.

6. Be that as it may, since the parties are labouring to settle the matter, list on 05.11.2022.

SUBRAMONIUM PRASAD, J SEPTEMBER 17, 2022 Rahul