

Ashiem Berry and Others Vs. State and Another

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Court : Delhi

Decided On : Feb-21-2012

Judge : Suresh Kait

Appeal No. : CRL.M.C. 93 of 2012

Appellant : Ashiem Berry and Others

Respondent : State and Another

Judgement :

SURESH KAIT, J.

(Oral)

1. Ld. Counsel for the petitioners submits that vide FIR no. 491 dated 20.07.2004 case under Section 498A/406/506/323/34 Indian Penal Code, 1860 was registered against the petitioners on the complaint of respondent no. 2 at Police Station - Ashok Vihar.

2. It is further submitted that a settlement arrived between the parties. Pursuance to the said settlement, marriage between petitioner no. 1 and respondent no. 2 has been dissolved by mutual consent vide decree of divorce dated 13.04.2011. A joint statement of petitioner no. 1 and respondent no. 2 was recorded, whereby petitioner no. 1 agreed to pay a sum of Rs.4,50,000/- as full

and final settlement.

3. It is further submitted that as per the settlement dated, 13.04.2011, respondent no. 2 has already received an amount of Rs.3 Lacs. It is pertinent to note that a DD of Rs.1.5 Lacs is placed in the judicial file of the trial court. It is further submitted that if the said amount is released in favour of respondent no.2, they have no objection.

4. Respondent no. 2 is present in person, who has been identified by SI Rohit, PS-Ashok Vihar. She submits that she has settled all the issues qua the aforesaid FIR and as per the settlement, she has received a sum of Rs.3 Lacs and Rs.1.5 Lacs remains to be unpaid. She has further stated that she has settled all the issues qua the aforesaid FIR against the petitioner without any coercion and pressure and she has no objection if the FIR referred above is quashed.

5. Ld. APP on the other hand submits that charge-sheet has already been filed, charges have been framed and the matter is fixed for Prosecution Evidence. She further submits that if the Court is inclined to quash the FIR, heavy costs be imposed on the petitioners, as in this process, government machinery has been pressed into and precious public time has been consumed.

6. Keeping the joint Statement of petitioner no. 1 and respondent no.2, dissolution of marriage dated 13.04.2011 and the statement of respondent no. 2 into view, as she has settled all the issues qua the aforesaid FIR and has no objections if the FIR is quashed, in the interest of justice, I quash FIR no. 491 dated 20.07.2004 registered at PS-Ashok Vihar with emanating proceedings thereto.

7. In these circumstances, Trial Court is directed to release DD of Rs.1.5 Lacs, which is lying in the judicial file in favour of respondent no. 2.

8. However, I find force in the submission of Ld. APP as in this process, government machinery has been pressed into and previous public time has been consumed, therefore I impose a cost of Rs.50,000/- on petitioner no.1 to

be deposited in favour of "Indigent and Lawyers Account" Bar Council of Delhi within 2 weeks from today under intimation to concerned SHO, Proof thereof shall be placed on record. SHO concerned shall ensure the timely deposition of cost.

9. However, I refrain in imposing cost on petitioner no.2, who is a retired person and petitioner no. 3, 4 and 5, being the relatives of petitioner no.1.

10. Crl. M.C. 93/2012 is allowed on the above terms.

11. Dasti.

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