

**Court No. - 48**

**Case :-** CRIMINAL MISC. WRIT PETITION No. - 1619 of 2010

**Petitioner :-** Poonam & Another

**Respondent :-** State Of U.P. & Another

**Counsel for Petitioner :-** R.B. Tripathi, Nitin Chandra Mishra

**Counsel for Respondent :-** Govt. Advocate, Sanjai Kumar Singh, Tariq Maqbool Khan

**Hon'ble Naheed Ara Moonis, J.**

The instant writ petition has been filed by the petitioners praying for quashing the impugned order dated 27.4.2007 passed by the learned Magistrate by which the application under section 125 Cr.P.C. filed by the petitioners was rejected and the order dated 7.10.2009 passed by the learned Addl. District Sessions Judge (F.T.C.) -2 Kushinagar whereby the revision of the petitioners was rejected.

This matter came up before another Bench of this Court. The Bench was pleased to pass the order dated 7.10.2015 by which this matter was sent to the Mediation Centre of this court for settlement.

Pursuant to the order of this Court dated 7.10.2015, the petitioners appeared before the Mediation Centre on 27.11.2015 and both the parties have resolved their differences by entering into following settlement:-

1. The marriage of Poonam (Petitioner No. 1 wife) and Ramsumiran (Respondent No. 2 Husband) was solemnized in the year 1998. After some time of their marriage the parties are living separately since year 2003. They have a daughter (at present aged about 12 years) who is living with her mother.
2. In view of the interim settlement as agreed between the parties the rest amount of Rs. 1,10,000/- (rupees one lac ten thousand) was to be paid in two instalments. The first instalment of Rs. 50,000/- (rupees fifty thousand) had already been paid on 4.9.2015 by way of demand drafts bearing nos. 852773 & 852774 dated 21.8.2015 of Rs. 25,000/- (rupees twenty five thousand) each (total Rs. 50,000/-) to Punam Viskarma/wife before the counsels of both the parties and the husband has acknowledged the receipt of the same.
3. The second and last instalment of Rs. 60,000/- (rupees sixty thousand), which was retained at the mediation centre is being paid today to the wife by the husband through two demand drafts of Rs. 30,000/- each bearing demand drafts no. 852776 and 852777 dated 6.9.2015, and she has acknowledged the receipt of the same.
4. As agreed between the parties they have filed a mutual divorce petition u/s 13 B of Hindu Marriage Act before Family Court,

- Kushinagar at Padrauna which is registered as Petition No. 446 of 2015 (Ram Sumiran Vs. Poonam). The certified copy of aforesaid marriage petition is being annexed to this settlement.
5. In view of the aforesaid terms and conditions there is nothing to be paid by the husband and his family members to the wife regarding present matrimonial dispute in future and they will be free to lead their lives as per their choice without interference of each other.
  6. It has been agreed between the parties that they will ensure their presence before the Family Court, Kushinagar at Padrauna on the next date/dates fixed by the Court for decree of divorce or other proceedings.
  7. It has been agreed between the parties that the cases filed by them against each other shall be withdrawn by them by moving suitable applications before the court concerned as all the disputes have been settled by both the parties.
  1. Having considered the submissions advanced by the learned counsel for the parties and looking to the settlement arrived at between the parties before the Mediation and Reconciliation Centre, no useful purpose would be served by keeping this application pending. This Court in exercise of powers under section 482 Cr.P.C. while taking into consideration of the special facts of the case may quash the proceedings even though it may be at a preliminary stage . In the instant case when the parties have resolved their differences and do not want to prosecute then the ordeal of trial procedure will be a futile exercise. In this regard the Apex Court decision in the case of **B.S.Joshi Vs. State of Haryana 2003 (46) ACC 779** has held that that the FIR was registered at her instance due to temperamental differences and implied imputations. It may be either for the reasons that she has resolved disputes with her husband and his other family members and as a result thereof she has again started living with her husband and his other family members with whom she had differences or she has willingly parted company and is living happily on her own or has married someone else on earlier marriage having been dissolved by divorce on consent of parties or fails to support the prosecution on some other similar grounds hence the criminal proceedings should be quashed in its inherent jurisdiction under section 482 Cr.P.C. as the parties have settled their matrimonial dispute the criminal proceedings should be quashed in its inherent jurisdiction under section 482 Cr.P.C. as the parties have settled their matrimonial dispute.

In the light of above, to give quietus to the dispute, the order dated 27.4.2007 passed by the learned Magistrate in application under section 125 Cr.P.C. filed by the petitioners and the order dated 7.10.2009 passed by the learned Addl. District Sessions Judge (F.T.C.) -2 Kushinagar in Criminal Revision No. 156 of 2005 are hereby quashed.

No coercive steps shall be taken against the respondent no.2

provided the respondent no.2 shall abide with the terms of the settlement arrived at between the parties on 27.11.2015.

With aforesaid observations, this application is disposed of.

**Order Date :-** 3.3.2017

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