

P<ITEM No. 1B
(For Judgment)

Court No.3

SECTION XVIA

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

TRANSFER PETITION (CRL.) No. 431/2008

AVIRAL BHATLA

Petitioner (s)

VERSUS

BHAWNA BHATLA
Respondent (s)
With
T.P.(C) No. 1052/2008

Date :18/02/2009 This Petition was called on for judgment today.

For Appellant (s) MS. Abha R.Sharma, Adv.

For Respondent(s) Mr. D.N.Goburdhan, Adv.

Hon'ble Dr. Justice Arijit Pasayat pronounced
Judgment of the Bench comprising His Lordship and Hon'ble
Mr. Justice Asok Kumar Ganguly.

The transfer petitions are disposed of in terms of the signed
judgment.

(Shashi Sareen)
Court Master

(Shashi Bala Vij)
Court Master

Signed Reportable judgment is placed on the file.

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION

TRANSFER PETITION (CRL.) NO. 431 OF 2008

Aviral Bhatla

..Petitioner

Versus

Bhawna Bhatla

..Respondent

(With T.P. (C) No. 1052 of 2008)

JUDGMENT

Dr. ARIJIT PASAYAT, J.

1. These transfer petitions have been filed by Aviral Bhatla (hereinafter referred to as the 'husband') seeking transfer of several cases pending before learned Chief Judge, Family Court, Gwalior, in proceedings under Section 9 of the Hindu Marriage Act, 1955 (in short the 'Act') and Section 125 of the Code of Criminal Procedure, 1973 (in short the 'Code'). The parties were married on 20.1.2006 at Surajkund, Haryana. It appears that there were some irreconcilable differences between the parties and despite concerted and serious efforts the parties were not able to resolve their disputes and were living separately since 10.10.2007. It appears that after the transfer petitions were filed before this Court, learned counsel for the parties made efforts to bring about a comprehensive settlement of the disputes relating to the matrimonial discord. The Mediation Centre of the Delhi High Court also played a vital role in arriving at a settlement. The details of the litigations between the parties are as follows:

(i) The petitioner has filed a case/petition under Section 13(1)(ia) read with Section (iii) of the Hindu Marriage Act, 1955 titled Aviral Bhatla v. Bhawna Bhatla bearing case No.48/07 which is pending in the court of Mr. Ashok Bhardwaj, ASG Gurgaon, Haryana.

(ii) Respondent has filed a case under The Protection of Women from Domestic Violence Act, 2005 being complaint case no. 3086/1/2007 dated 03.11.07, under section 12 of the Domestic Violence Act, which is pending in the court of Ms. Veena Rani Metropolitan Magistrate at Patiala House, New Delhi.

(iii) Respondent has filed a petition for restitution of conjugal rights under section 9 of the Hindu Marriage Act, 1955 in Gwalior bearing No. 501(a)/07 against the Petitioner pending before Ms. Saroj Maheshwari Jain, Chief Judge, Family Court, Gwalior. The said proceedings have been stayed by this Hon'ble Court in the Transfer Petition No. 1052/2008.

(iv) Respondent has filed a petition u/s 125 Criminal Procedure Code, 1973 being case No.435 of 2007 titled as Bhavna Bhatla v. Aviral Bhatla, pending before Ms. Saroj Maheshwari Jain, Chief Judge, Family Court, Gwalior(MP).

The Petitioner has filed a transfer petition for the transfer of this matter bearing Transfer Petition No. 431/2008 and such proceeding has been stayed by this Court in the Transfer Petition No. 431/2008.

(v) Respondent has filed an FIR bearing No. 68/2007 dated 26.11.2007, against Petitioner and his family members under Section 406 r/w 34 and 498A of the IPC read with section 4 of Dowry Prohibition Act which is pending investigation in Mahila Police Station Padav, Gwalior.

(vi) That petitioner's father has filed a case bearing Case No. 18664/1/08 titled as MK Bhatla V. Chitvan Sharma & ors. u/s 420, 465 468, 471 and 120B pending before the Court of Mr. Sudesh Kumar MM Patiala House, New Delhi.

(vii) The Petitioner has filed two Transfer Petitions bearing TP(C) no. 1052 of 2008 and TP (Cr1) No.431 of 2008 before this Court inter alia praying transfer of the petition u/s 9 of the Hindu Marriage Act, 1955 filed by the Respondent pending before the Chief Judge, Family Court at Gwalior and transfer of proceedings under section 125 Criminal Procedure Code, 1973 filed by Respondent pending before the Chief Judge, Family Court at Gwalior (MP).

The agreed terms of settlement are as follows:

"That the Petitioner agrees and undertakes that he shall pay an amount of Rs.12 lacs (Rupees Twelve Lacs) to Respondent in the form of a Pay Order in favour of Ms. Bhavna Bhatla, at the time of making of statements/grant of divorce/quashing of all the criminal and civil proceedings as a full and final settlement of all her claims. Further more the petitioner agrees and undertakes to hand over all the household articles as mentioned in settlement agreement dated 14. 11.08 before Ld. Mediator of High Court of Delhi in the presence of both the parties, which are lying at House no. E-8/10, 3rd Floor, Malviya Nagar, New Delhi, within 7 days from the date of signing of the present petition, the same will be collected by the respondent and the expenses for the transportation will be borne by her.

The respondent agrees and undertakes that after the receipt of Rs.12 lacs, she and/or any of her family member will have no claim on account of alimony (past, present and future), maintenance, dowry, stridhan or will have no right of claim on any of the property movable or immovable, self acquired, ancestral, joint or HUF of the petitioner or his parents, or his family for any past, present or future claims which have all been settled in terms of the present Consent Terms. Similarly, petitioner and his family members will also have no claim against the respondent and her family members.

That both the parties agree and undertake that all the cases/complaints in any forum or court which have been filed by the parties and their family members against each other including the ones listed above will be treated as compromised and settled in terms of the present application of divorce by mutual consent under Article 142 of the Constitution of India and this Court may also pass order for quashing of Criminal proceedings as mentioned

above."

2. In view of the factual situation and the settlement arrived at by the parties we direct that a decree of divorce by mutual consent be passed. All the proceedings referred to above which are pending shall stand quashed. We record our appreciation for the effective manner in which the Mediation Centre of Delhi High Court helped the parties to arrive at a settlement.

3. The transfer petitions are accordingly disposed of.

J.

.....
(Dr. ARIJIT PASAYAT)

J.

.....
(ASOK KUMAR)

GANGULY)
New Delhi,
February 18, 2009