

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS.205-206/2022

AMAN LOHIA

APPELLANT(s)

VERSUS

HIGH COURT OF DELHI

RESPONDENT(s)

WITH

SLP(CrI) No. 1324-1329/2022

SLP(CrI) No. 11659/2019

SLP(CrI) No. 1330-1335/2022

SLP(CrI) No. 410-411/2020

SLP(CrI) No. 400-402/2020

SLP(CrI) No. 1336-1344/2022

T.C.(C) No. 26/2021

O R D E R

Criminal Appeal Nos.205-206/2022

A love marriage in good times together seems good but good times sometimes don't last forever! We are faced with a situation in the present matter of subsequent acrimony arising between the parties. However, we believe better sense has prevailed on both the parties, having walked a path together for such a long time and having a progeny out of the marriage, it was in their best interest to part as friends and still have a common interest as parents of their child.

We had on the last date of hearing set down the substantive terms of settlement and expected an

application to be filed. However, it appears that the exchange of ideas in the pending matters which were to be ironed out has not worked out to the best satisfaction of both the parties and thus we consider appropriate to examine those aspects ourselves. We have been able to arrive at a complete settlement with the assistance of the counsels and with the constructive approach of the parties before us and we hope that will continue.

In the conspectus of the last order and what has been worked out before us, we now pen down the composite order to settle the disputes arising *inter se* the parties.

First things first. On our repeated queries, both the parties are firm in their view that the marriage cannot work because both sides have gone their own way, have different aspirations and different ideas of life. They want divorce by mutual consent on account of irretrievable breakdown of marriage. We asked the parties repeatedly if they want to re-think on this issue. There appears to be no re-think. We thus feel that this is a fit case for exercise of our jurisdiction under Article 142 of the Constitution of India to grant a decree of divorce by mutual consent and on account of irretrievable breakdown of marriage with both parties present before us and affirming the same

with the assistance of their counsels. We order accordingly and direct the decree of divorce to be drawn out accordingly. The terms set forth hereafter shall form a part of the decree.

Now we come to the remaining aspects which have to be taken care of as enunciated in our last order and we set down those as under :

- 1) the guardianship and custody of the minor child Raina will remain with the mother;
- 2) the father will have visiting rights to the child and the details will be worked out on a broadly shared basis by the parties together. Let us only say that there has to be mutual adjustment on sharing the vacation period as sometimes one parent or the other may be occupied or may have other commitments. That would also apply to the child as years go by with her education. The sensitivity of having the child join both the parents on special occasions is also something to be kept in mind.

Both the parties are *ad idem* on the issue that they would not like to see courts again, and some arrangement should be made to iron out any minor differences in this perspective, if they were so to arise. We are ofcourse hopeful those will not arise, but to work out an arrangement and specially at the initial stage when the parties are walking on

different paths, it is agreed that a person be appointed who would have sensitivity towards the issue and whose decision for both the parties shall be final on this issue without further reference to court proceedings. With the consent of parties, we appoint Justice Gita Mittal, former Chief Justice of the Jammu and Kashmir High Court as the designated person for the said purpose. We further clarify that her emoluments are to be paid as decided by her to be shared jointly by the parties.

3) Insofar as the present visits of the child and her interaction with the father/his family are concerned, we have set out the same in the last order i.e. in order to facilitate prolonged quality time for the child rather than only insignificant time periods on periodic basis, the weekend visits with the father will commence with the child being collected from the school on Friday evening and returned to the mother by 10:30 a.m. Sunday morning.

We do expect the mother to assist in the said process to make the child comfortable with the father, and the parents will keep in mind the interest of the child till she gets used to the arrangement. This will also facilitate in future the time to be spent by the child separately with the father and the mother;

4) The mother Dr. Kiran Lohia will give up all her rights of maintenance for herself in view of the overall settlement being worked out and she being a well qualified doctor having her own sources to take care of herself;

5) As far as the child Raina is concerned, Mr. Aman Lohia commits to meeting 50% of her educational expenses for the present time and the times to come. This would depend on what route the education will take. Suffice to say at present the child is being educated in the American School for which the expenses are in the range of Rs. 27 lakhs per annum.

It is the equitable privilege of both the parties to bear the expenses starting from the year 2022 and whatever fees has been paid by the mother till now, bills for the same will be sent to the father to settle the claims to the extent of 50% on or before 15.07.2022. The same process would also be followed in the future by sending the bills to the father who would then make payments to the mother within 10 days of the bills being sent;

6) The father Aman Lohia also commits an amount for maintenance of the child Raina now and revisable in future by 20% every three years. The commitment would start from the year 2022. We quantify the amount for the current year at Rs. 50,000/- per month and the arrears of the current

year shall be paid on or before 15.07.2022. For the future, the amount will be deposited in advance in the account of the mother by the seventh of each month;

7) The child has an American passport. She will maintain the American passport and there is no question of surrendering of the same and it will be for the child to have the option of citizenship that she would like to take when she attains majority. She will have the benefit of being brought up with appreciation and customs of both the religions of her parents and her surname and first name will not be changed. Though there is no impediment to addition of a middle name at behest of the mother;

8) The proceedings in pursuance of FIR No.129/2019 dated 28.08.2019, Police Station Vasant Vihar, subsequently re-registered by CBI as No.RC-5(S)/2019/SCU-V/SC-II/CBI/New Delhi on 11.09.2019 stands quashed and the criminal proceedings in respect of which the present appeals have been filed are also brought to an end. Thus, all proceedings *inter se* the parties and their family members/associates are hereby closed and brought to an end by orders of this Court.

Similarly we consider it appropriate to direct closure of all proceedings *inter se* the parties enumerated as under or otherwise, in India or abroad

are brought to an end :

1. Kiran Lohia v State of NCT & Ors., W.P. (CrI) 2375/2019 pending before the Hon'ble High Court of Delhi
2. Kiran Lohia v Aman Lohia & Ors., Cont. Cas (C) 763/2019 pending before the Hon'ble High Court of Delhi
3. Aman Lohia v. Kiran Lohia, GP No.09 of 2019 pending before the Ld. Family Court, Patiala House Court, New Delhi
4. Kiran Lohia v. Aman Lohia, GP No.07 of 2022 pending before the Ld. Family Court, Patiala House Court, New Delhi
5. Complaint under Section 498-A and 406 IPC filed by Kiran Lohia against Aman Lohia, Ajey Lohia, Meena Lohia, and Megha Lohia
6. Medical Council of India complaint bearing complaint number MCI- 211(2) (Gen)/2020-Ethics/115326 filed by Raj Mittal at the behest of the First Party against the Second Party and her clinic.
7. Delhi Medical Council complaint bearing complaint number DMC/DC/F.14/Comp.2741/2/2019/280921 filed by Raj Mittal at the behest of the First Party against the Second Party and her clinic.
- 9) Dr. Kiran Lohia assures that if an eventuality arises at any stage for any period of shifting to the US or any other Western country, the orders of this Court will be mirrored before the competent Courts. Apart from that, as to how the visiting rights of the father for company of the child have to be worked out, would also become necessary and for this purpose also Justice Gita Mittal, is fully empowered to take an appropriate decision. Needless to say if father has to relocate, same kind of arrangement will be made.

On instructions from the lawyers from UAE, the mother

has been advised that for the father to take the child with himself, apart from mirroring the order it may also require an agreement to be executed through her or through a constituted Attorney. For this purpose, the mother states that she or the attorney will visit the UAE for which the father will cooperate.

The process to be completed as agreed by the parties within six weeks from today;

10) It is also pointed out that Mr. Aman Lohia is a passport holder of Commonwealth of Dominica and thus, it is essential that the orders of this Court are mirrored in the Commonwealth of Dominica, Eastern Caribbean Supreme Court. Both the parties will jointly take steps to ensure this and move the necessary proceedings within a maximum period of four weeks;

11) The child Raina is permitted to travel abroad with the father only after the order is mirrored in the UAE Courts and the UAE agreement is executed;

12) Since there will be no impediment in future, there is no requirement of retaining the passport of Mr. Aman Lohia deposited before this Court which shall be released to him and the LOC/ any NBW issued will stand removed. So far as the passport of the child Raina is concerned, the same shall be released to the mother, Dr. Kiran Lohia who shall be the custodian of the passport. As and when the child is to travel with the father, the passport will be handed over by the mother to the father

for purposes of travel.

Needless to say both the parties will cooperate and execute all documents to facilitate the travel of the child Raina.

We direct the Foreigners Regional Registration Office, Ministry of Home to expeditiously issue an Overseas Citizen of India (OCI) card to Raina, so as to enable her to undertake international travel and Mr. Aman Lohia will cooperate in the OCI process.

The cancelled Commonwealth of Dominica passport of Raina deposited in Court shall also be handed over to Dr. Kiran Lohia;

13) Mr. Aman Lohia states that *inter alia* there are two pieces of jewelery which belong to his mother which were given to Dr. Kiran Lohia, but his mother would like to have them back, while all other jewelery given by the mother may continue to be with Dr. Kiran Lohia without any impediment. Dr. Kiran Lohia is not sure whether these two pieces of jewelery are lying in the locker but in order to facilitate the same, the locker can be visited by both the parties, and if two pieces are lying there they would be returned to Mr. Aman Lohia, to be handed over to his mother;

14) At present the child Raina is accompanied by a Guard/Nanny. When visiting Mr. Aman Lohia, the guard henceforth has no role to play and shall not visit and the Nanny will accompany while visiting the premises of Mr.

Aman Lohia when the child joins him at his house till she becomes comfortable with the father;

15) At request of parties, it is clarified that in the event of any unfortunate eventuality of demise of any of the two parties, the other party will naturally be the guardian of the child.

16) It appears that some equipment relevant for Dr. Kiran Lohia as Doctor was left in the premises of Mr. Aman Lohia, owned by a company. It is the say of Mr. Aman Lohia that since that loan in lieu thereof was not paid, that machinery was taken away. He has however, assures that arrangements will be made so that the machinery is handed over to Dr. Kiran Lohia within a period of six weeks from today.

In the end, we make it clear that both the parties will remain fully bound by the settlement arrived at before this Court and are made conscious of the consequences of any endeavour to violate the same. As a matter of abundant caution, we call upon both the parties to sign the original order.

The appeals stand disposed of in terms aforesaid.

SLP(Cr1) No. 1324-1329/2022, SLP(Cr1) No. 11659/2019, SLP(Cr1)Nos.1330-1335/2022,, SLP(Cr1)Nos.410-411/2020, SLP(Cr1) No. 400-402/2020, T.C.(C) No. 26/2021

The present litigations being an off-shoot of a dispute *inter se* the parties in Criminal Appeal Nos.205-

206/2022, the present proceedings are closed in terms of orders passed in Criminal Appeal Nos.205-206/2022 and all the other parties in these proceedings will be bound by the undertakings given and the privileges extended.

The Special Leave Petitions and the Transferred Case are disposed of accordingly.

IA No.76042/2022 IN SLP (CRL.) Nos.410-411/2020

This application has been filed seeking to protect the interest of the child *inter alia* during the absence of the child from the mother's custody in India, something the father accepts was wrongly done and was later redeemed. There were various footprints of the same on online platforms and search engines. What is prayed is for removal of the same. We are inclined to accept the same as it is in the interest of the child that the name of the child or father should not be reflected in various electronic forms whether it be media houses, Google, print, online platform, and other search engines for which purpose this order should be brought to the notice of the concerned managements. What has happened in the past of course cannot be remedied but it can take care of the future.

The IA stands disposed of.

SLP [CRL.] NO.1336-44/2022

The present petitions arise from an associate of Mr. Aman Lohia whose passport is also deposited in the trial Court. In view of all proceedings *inter se* the parties being closed in terms of the order passed in Criminal

Appeal Nos.205-206/2022, the criminal proceedings arising from the subject matter herein also stand closed and the passport deposited before the trial Court be released to the petitioner. The Red Corner Notice/NBW notice also stand cancelled.

The Special Leave Petitions are disposed of in the above terms.

[AMAN LOHIA]

[DR. KIRAN KAUR LOHIA]

[RAJAT BHALLA]
COUNSEL FOR AMAN LOHIA

[VANSHAJA SHUKLA]
COUNSEL FOR
DR.KIRAN KAUR LOHIA

.....J.
[SANJAY KISHAN KAUL]

.....J.
[M.M. SUNDRESH]

NEW DELHI;
MAY 18, 2022.

ITEM NO.3

COURT NO.6

SECTION II-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 205-206/2022

AMAN LOHIA

Appellant(s)

VERSUS

HIGH COURT OF DELHI

Respondent(s)

([FOR DIRECTIONS])

WITH

SLP(Cr1) No. 1324-1329/2022 (II-C)

SLP(Cr1) No. 11659/2019 (II-C)

SLP(Cr1) No. 1330-1335/2022 (II-C)

SLP(Cr1) No. 410-411/2020 (II-C)
(IA No. 76042/2022)

SLP(Cr1) No. 400-402/2020 (II-C)

SLP(Cr1) No. 1336-1344/2022 (II-C)

T.C.(C) No. 26/2021 (XVI-A)

Date : 18-05-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE M.M. SUNDRESH

For Petitioner (S)

In It.3 & 3.4

Ms. Meenakshi Arora, Sr. Adv.
Mr. Rajat Bhalla, Adv.
Mr. Amarjeet Singh, AOR

In 3.6

Mr. Viresh B. Saharya, AOR
Mr. Akshat Agarwal, Adv.

In 3.2,3.3,3.5

Mr. Narendera M Sharma, Adv.
Mr. Rupesh Kumar, AOR
Ms. Pankhuri Shrivastava, Adv.

Mr. Mukul Kumar, AOR

For Respondent(s) Mr. Shyam Divan, Sr. Adv.
Mrs. Malavika Rajkotia, Adv.
Mrs. Vanshaja Shukla, AOR
Ms. Akriti Tyagi, Adv.
Ms. Divya Jyoti Singh, Adv.
Mr. Mayank Grover, Adv.
Ms. Riya Krishnamurthy, Adv.
Mr. Sajal Singhai, Adv.
Mr. Sudipto Sirkar, Adv.

Mr. Chirag M. Shroff, AOR
Mr. Amandeep Mehta, Adv.

Mr. Ashok Panigrahi, Adv.
Ms. Shradha Deshmukh, Adv.
Ms. Indira Bhakar, Adv.
Mr. Sughosh Subramanyam, Adv.
Mr. Nabab Singh, Adv.
Mr. Raj Bahadur Yadav, Adv.
Mr. Arvind Kumar Sharma, AOR

UPON hearing the counsel the Court made the following
O R D E R

Criminal Appeal Nos.205-206/2022

The appeals stand disposed of in terms of
the signed order.

SLP(Cr1) No. 1324-1329/2022, SLP(Cr1) No. 11659/2019,
SLP(Cr1)Nos.1330-1335/2022,, SLP(Cr1)Nos.410-411/2020,
SLP(Cr1) No. 400-402/2020, T.C.(C) No. 26/2021

The Special Leave Petitions and the Transferred
Case are disposed of in terms of the signed order.

IA No.76042/2022 IN SLP(Cr1.) N0s.410-411/2020

The IA stands disposed of.

SLP [CRL.] NO.1336-44/2022

The special leave petitions are disposed of in terms
of the signed order.

[CHARANJEET KAUR]
ASTT. REGISTRAR-cum-PS

[POONAM VAID]
COURT MASTER (NSH)

[Signed order is placed on the file]