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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: April 21, 2015

+ **CRL.M.C. 3339/2014 & CrI.M.A.No.11572/2014**

MOHD BABU@SAMEERPetitioner
Through: Mr. Pramod Kumar Sharma,
Advocate

versus

SHAKILARespondent
Through: Mr. Amar Nath, Advocate

**CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR**

**JUDGMENT
(ORAL)**

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In proceedings under Section 125 of Cr.P.C. petitioner had raised the question of maintainability, which has been answered by the trial court in favour of petitioner vide order of 8th April, 2013 while noting that the parties had entered into a compromise of 19th March, 2012 (*Annexure A-3*). Aforesaid order was successfully challenged in appeal and the Appellate Court vide impugned order of 25th April, 2014 has set aside trial court's judgment and has remanded back the matter to the trial court by holding that a Muslim wife remain entitled to claim maintenance from her erstwhile husband till the time of her re-marriage. Impugned order holds that the settlement was in respect of divorce and there can be no

presumption that it was for maintenance as well.

At the hearing, learned counsel for petitioner had submitted that Appellate Court has misread the Settlement of 19th March, 2012 (*Annexure A-3*), which clearly provides that after this settlement no proceedings will be undertaken by the parties against each other.

Learned counsel for respondent supports the impugned order and submits that an opportunity ought to be granted to respondent to show before the trial court that the settlement was infact in respect of divorce matter only and did not hold good in respect of claim for maintenance.

Upon hearing and on perusal of the impugned order, trial court's order, Settlement of 19th March, 2012 (*Annexure A-3*) and material on record, I find that the Settlement of 19th March, 2012 (*Annexure A-3*) was a comprehensive settlement as it clearly stipulated that the parties will not initiate action against each other after this settlement.

This court is of the considered opinion that the Appellate Court has misread the Settlement of 19th March, 2012 (*Annexure A-3*) and same has been appreciated by trial court in the right perspective. Consequently, impugned order of 25th April, 2014 is quashed and trial court's order of 8th April, 2013 is restored.

Accordingly, the petition and the application stand disposed of.

(SUNIL GAUR)
JUDGE

APRIL 21, 2015

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