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

+ **CRL.M.C. 3806/2016**

IKTIDAR ALI @ ARIF

..... Petitioner

Represented by: Mr. Farahim Khan and Mr.
Nasimuddin, Advocates with
petitioner in person.

versus

THE STATE OF NCT OF DELHI & ANR.

..... Respondents

Represented by: Ms. Meenakshi Chauhan, APP
for the State with SI Shailendra
K. Singh, PS Bhajanpura.
Mr. Pawan Bhatia, Advocate
for respondent No.2 with
respondent No.2 and her
mother in person.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

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11.11.2016

By the present petition the petitioner seeks quashing of FIR No. 446/2008 under Sections 363/365 IPC registered at PS Bhajan Pura, Delhi on the complaint of Mohd. Saleem, brother of respondent No.2 Shanno, on the ground that the parties have settled the matter.

Learned APP for the State on instructions submits that in the above noted FIR the petitioner is the only accused and the respondent No. 2 is the victim who was allegedly kidnapped and her brother, being the informant lodged the FIR.

The Respondent No. 2/the victim Ms. Shanno is present in Court. She

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states that at the time of the incident she was a minor and her legal guardian was her mother, that is, Ishrat Jahan as her father had passed away. The FIR was lodged by the brother of the respondent No.2 as an informant because her father had passed away and her mother, the legal guardian Smt. Ishrat Jahan could not go to the Police Station to lodge the complaint. Respondent No.2, states that she is a major now and is now married. She further states that the informant who is her brother is residing separately out of Delhi and since the relations between the parties are not cordial, he has declined to appear in Court. Her mother Smt. Ishrat Jahan, who was the guardian of respondent No.2 till her minority is also present in Court. Both Smt. Ishrat Jahan and Ms. Shanno, respondent No.2, who are present in Court state that they have settled the matter with the petitioner and do not wish to pursue the above noted FIR and the proceedings pursuant thereto.

As per the decision of the Supreme Court reported as 2014 (1) SCC 87 Ganesh vs. Sharanappa and Anr. wherein the distinction between the complainant was noted, Mohd. Saleem was only an informant being neither the victim nor the legal guardian of the respondent No.2.

Since the victim, that is, respondent No.2 and her legal guardian, her mother Smt. Ishrat Jahan, have settled the matter with the petitioner and the maker of the FIR Mohd. Saleem neither a victim nor the complainant was only an informant, being the brother of the respondent No.2, this Court finds no legal impediment in quashing the FIR on the basis of settlement arrived at between the petitioner, the victim, the legal guardian of the victim, since at the time of the offence, the victim was a minor. Since the victim and her legal guardian do not wish to pursue the above noted FIR, no useful purpose

will be served in continuance of the trial, rather the same would be an abuse of the process of the Court.

Consequently, FIR No. 446/2008 under Sections 363/365 IPC registered at PS Bhajan Pura, Delhi and proceedings pursuant thereto are hereby quashed.

The petitioner, respondent No.2/the victim and her mother Smt. Ishrat Jahan, who are present in Court and are identified by their respective counsels and the Investigating officer, have signed this order sheet in acknowledgment of their statements made before this Court.

The petition is disposed of. Order dasti.

MUKTA GUPTA, J.

NOVEMBER 11, 2016
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