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

+ CRL.M.C. 3239/2017

ANIL KUMAR

..... Petitioner

Through: Mr.S.K.Raghav, Ms.Neha Yadav &
Ms.Swati Singh, Advocates

versus

STATE (NCT OF DELHI) & ANR

..... Respondents

Through: Mr.Sanjeev Sabharwal, APP for the
State with SI Ravinder Kumar
PS Prashant Vihar
Respondent No.2/complainant in
person

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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21.08.2017

CRL.M.A.13325/2017

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

CRL.M.C. 3239/2017

1. By way of this petition filed under Section 482 Cr.P.C. petitioner is seeking quashing of case FIR No.365/2010 under Sections 323/354/509 IPC registered at PS Prashant Vihar, Delhi on the basis of settlement.
2. Notice. Mr.Sanjeev Sabharwal, APP for the State accepts notice of

this petition.

3. Respondent No.2/complainant is present in person and submits that since petitioner/accused has tendered apology she has pardoned him and does not want to continue with the criminal proceedings.

4. On being questioned by the Court as to whether she has settled the issue under some pressure, the complainant has stated that she is a working woman and it is not feasible for her to attend the Court very frequently by taking leaves. She has also informed that this is not the first instance that she had been harassed by the petitioner as on earlier occasions also it was done but she did not get the FIR registered as at that time also an apology was tendered by him.

5. The contents of the FIR reveal that the complainant/respondent No.2 was undergoing Nursery Teacher Training Course. The petitioner/accused, who was known to the complainant, took her photographs from his mobile when after getting down from the bus at bus stop of Sector-11, Rohini, she was going to her college on foot. She also complained about being abused by him when she objected to her photographs being taken by him. She also made complaint to the Principal of Tatisa School, Sector 11, Rohini as accused was a driver on the mini bus of that school. Another incident has also been mentioned in the FIR wherein she reported that when she was returning and reached near the college gate, the petitioner dragged her from her left hand and tried to embrace her. When she tried to bite his hand, he slapped on her left ear as a result of which she fell down and was helped by the guard present there.

6. In respect of the offences punishable under Sections 323/354/509 IPC,

on the basis of settlement, proceedings can be quashed in exercise of power under Section 482 Cr.P.C. In this case the settlement is before the Mediation Centre, Rohini District Court, Delhi. The apology was tendered by the petitioner/accused to the complainant with the assurance not to repeat the act in future.

7. The terms of the mediation settlement are as under:-

“(i) Both the parties have settled the present case amicably without any compensation/consideration as full and final settlement or may proceed for quashing of FIR in accordance with law.

(ii) Accused is apologizing to the complainant regarding the incident and assured that he will not quarrel again in future.

(iii) It is also settled that the complainant shall compound/withdraw the connected case.”

8. The petitioner is a mature person. As per the copy of the voter identity card issued by the Election Commission he is aged about 38 years as on date. The incident pertained to the year 2010 when he was above 30 years of age.

9. During the course of hearing of this petition, on being questioned by this Court about the contents of FIR wherein serious allegations have been made against him, he has denied any such occurrence. The petitioner submits that in fact the dispute is between their respective families and he has been falsely implicated due to that reason.

10. The above submissions made before the Court by the petitioner himself shows that he is not admitting any such occurrence. Hence whatever has been recorded in the mediation settlement i.e. tendering of apology by him regarding the incident with assurance not to repeat in future (which can

only be if the occurrence is admitted), the case FIR No.365/2010 PS Prashant Vihar, Delhi and the criminal proceedings emanating therefrom cannot be quashed. It will be a subject matter of trial as to whether any such occurrence has taken place or not.

11. The petition is dismissed.

PRATIBHA RANI, J.

AUGUST 21, 2017

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