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

+ **CRL.M.C. 24/2018**

AKSHAT KUMAR & ANR

..... Petitioner

Through: Mr. Vishesh Wadhwa, Advocate.

versus

THE STATE GOVT OF NCT OF DELHI & ANR Respondents

Through: Mr. Ashish Dutta, APP for State.
Mr. Baldev Raj & Ms. Shibha Tyagi,
Adv for R-2.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

12.02.2018

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Vide the present petition, the petitioners seek quashing of the FIR no. 160/2014, PS Rajouri Garden under Sections 354A/509/34 of the Indian Penal Code, 1860 submitting to the effect that a settlement has been arrived at between the petitioners and the respondent no. 2 in as much as the marriage of the respondent no. 2 with the son of the petitioner no. 2 has since been dissolved by a decree of divorce through mutual consent and the copy of the said decree of divorce in terms of proceedings dated 04.01.2018 has been submitted on the record by the petitioners dated 08.09.2017 as issued in HMA no. 640/2017 of the Court of Additional Principal Judge, Family Courts West, Delhi.

The Investigating Officer of the case, i.e., SI Karamvir Singh, PS Rajouri Garden has identified the petitioner no. 1, Mr. Akshat Kumar and petitioner no. 2, Sh. Nirmal Kumar as being the two accused arrayed in the FIR No.160/2014, under Sections 354A/509/34 of the Indian Penal Code, 1860, PS Rajouri Garden and has also identified the respondent no. 2, Ms. Jyoti Kataria as well being the complainant of the said FIR present in the Court today.

The proof of identity of the petitioner nos. 1 & 2 and the respondent no. 2 in the form of photocopies of their Election Commission Cards are on the record as Ex. CW1/A, Ex. CW1/B & proof of identity of the respondent no. 2 in the form of photocopy of her Aadhar Card is on the record Ex. CW1/C, originals of which have been produced and have been seen and returned.

The respondent no.2, the complainant of the said FIR in her examination on oath by the Court has testified to having sworn her affidavit annexed to the petition as Ex.CW2/A and has further testified to having signed the settlement which has been arrived at between her former spouse and herself through Memorandum of Understanding dated 06.02.2017 in which there is a term *inter alia* in relation to the quashing of the FIR no. 160/2014, PS Rajouri Garden under Sections 354A/509/34 of the Indian Penal Code, 1860 with an additional term therein in Para 11 to the effect :-

“That both the parties hereto undertake not to defame each

other in future w.r.t. this matrimonial dispute and any other complaint/cross case (if any) has been made/lodged by either of the parties against the other party whether the same is within the knowledge of the opposite party or not and the same shall also be treated as withdrawn/compromised in order to honour the present MOU.”

In terms of the settlement that has been arrived at between the respondent no. 2 and her former spouse, the total sum of Rs. 21 lacs in terms of said settlement is indicated to have now been paid to the respondent no. 2, inasmuch as she has stated that the said amount was paid to her in four instalments of Rs. 5.25 lacs each and out of which three instalments has been received by her previously and a balance sum of Rs. 5.25 lacs has been handed over to her today vide a demand draft bearing no. 514343 dated 02.01.2018 in her favour drawn on the Oriental Bank of Commerce, copy of which is on the record as Ex. CW2/C. She has further testified to the effect that there are now no claims of hers left against the petitioner nos. 1 & 2. She further stated that she seeks that the petitioner nos. 1 and 2 comply and abide by the terms of the settlement, i.e., Ex. CW2/B and do not harass her in any manner and make no contact with her and her family members.

She has further stated that she is an M.Sc. and B.Ed and she teaches. She further stated that she does not oppose the prayer made by the petitioners seeking quashing of the FIR No.160/2014, PS Rajouri Garden

under Sections 354A/509/34 of the Indian Penal Code, 1860 and does not want them to be punished in relation thereto and that she has made her statement voluntarily of her own accord without any duress, pressure or coercion from any quarter.

In view of the deposition of the respondent no. 2, it has been considered essential to examine the petitioner nos. 1 & 2, whose statements have been recorded and who have on oath deposed to the effect that they do not harass the respondent no. 2 or her family members in any manner and undertake not to harass the respondent no.2 and her family members and have stated that they shall make no contact with them. The petitioner no. 2 has further stated to the effect that they will never harass the respondent no. 2 or her family members at any stage.

Taking into account the factum that the FIR in question apparently emanates from a matrimonial discord between the former spouse of the respondent no. 2 and the respondent no. 2 and the marriage between them has been dissolved by a decree of divorce through mutual consent in HMA no. 640/17 and all the claims/disputes between the petitioners and the respondent no. 2 having been settled as stated by the respondent no. 2 herself and there being no reason to disbelieve her statement that she has arrived at a settlement voluntarily with the petitioners, and the factum that on behalf of the State, there is also no opposition to the prayer made by the petitioners seeking quashing of the FIR in question.

For the well being of the respondent no. 2 and in view of the settlement arrived at between the petitioners and herself and for the

maintenance of peace and harmony between them, the FIR No. 160/2014, PS Rajouri Garden under Sections 354A/509/34 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom are thus quashed.

The petitioners shall however, will remain bound by their statements.

ANU MALHOTRA, J

FEBRUARY 12, 2018
NC

Item No. 14

CRL.M.C.24/2018

AKSHAT KUMAR & ANR. Vs. STATE (NCT OF DELHI) & ANR.

CW-1 SI KARAMVIR SINGH, POLICE STATION RAJOURI GARDEN, NEW DELHI.

ON S.A.

I identify the petitioner no. 1, Mr. Akshat Kumar, s/o Sh. Nirmal Kumar and petitioner no. 2, Sh. Nirmal Kumar, s/o Late Sh. Sunder Lal as being the two accused in FIR No.160/2014, under Sections 354A/509/34 of the Indian Penal Code, 1860, PS Rajouri Garden and I also identify the respondent no. 2, Ms. Jyoti Kataria being the complainant of the said FIR present in the Court today. The proof of identity of the petitioner nos. 1 & 2 and the respondent no. 2 in the form of photocopies of their Election Commission Cards are on the record as Ex. CW1/A, Ex. CW1/B & proof of identity of the respondent no. 2 in the form of photocopy of her Aadhar Card is on the record Ex. CW1/C. (Originals seen and returned).

**RO & AC
FEBRUARY 12, 2018.**

ANU MALHOTRA, J

Item No. 14

CRL.M.C.24/2018

AKSHAT KUMAR & ANR. Vs. STATE (NCT OF DELHI) & ANR.

Statement of CW2 : Ms. Jyoti Kataria, d/o Shri Prem Kataria, aged 41 years, r/o ED-50/2, IInd Floor, Tagore Garden, New Delhi.

ON S.A.

My affidavit annexed to the petition bears my signatures thereon at points-A & B on Ex.CW2/A. The Memorandum of Understanding dated 06.02.2017 executed between me and Mr. Shitiz Kumar son of Sh. Nirmal Kumar bears my signatures thereon on the original as also visible on the copy thereof at point A on each page on Ex. CW2/B. I have signed both these documents voluntarily of my own accord without any duress, coercion or pressure from any quarter.

In terms of the settlement arrived at between me and the petitioners, the total sum of Rs. 21 lacs was to be paid to me by the petitioners and also Mr. Shitiz Kumar, my X- husband, which was paid in four instalments of Rs. 5.25 lacs each and out of which three instalments has been received previously and a balance sum of Rs. 5.25 lacs has been received by me today vide a demand draft bearing no. 514343 dated 02.01.2018 in my favour drawn on the Oriental Bank of Commerce, copy of which is on the record as Ex. CW2/C. There are now no claims of mine left against the petitioners. I seek that the petitioner nos. 1 and 2 comply and abide by the terms of the settlement, i.e., Ex. CW2/B and do not harass me in any manner and make no contact with me and my family members.

I am M.Sc. and B.Ed and I teach. I do not oppose the prayer made by the petitioners seeking quashing of the FIR No.160/2014, PS Rajouri

Garden under Sections 354A/509/34 of the Indian Penal Code, 1860.

I have made this statement voluntarily of my own accord without any duress, pressure or coercion from any quarter.

ANU MALHOTRA, J

**RO & AC
FEBRUARY 12, 2018**

Item No. 14

CRL.M.C.24/2018

AKSHAT KUMAR & ANR. Vs. STATE (NCT OF DELHI) & ANR.

Statement of CW3 : Mr. Akshat Kumar, s/o Shri Nirmal Kumar, aged 34 years, r/o EC-158, Tagore Garden, New Delhi.

ON S.A.

I undertake not to harass the respondent no. 2 and her family members and shall make no contact with them.

ANU MALHOTRA, J

RO & AC

FEBRUARY 12, 2018

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CRL.M.C.24/2018

AKSHAT KUMAR & ANR. Vs. STATE (NCT OF DELHI) & ANR.

Statement of CW4 : Mr. Nirmal Kumar, s/o Late Sh. Sunder Lal, aged 67 years, r/o EC-158, Tagore Garden, New Delhi.

ON S.A.

I have never harassed the respondent no. 2 and her family members and I undertake not to harass the respondent no. 2 and her family members and shall make no contact with them.

ANU MALHOTRA, J

RO & AC

FEBRUARY 12, 2018