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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 442/2018
KAILASH DUTT UPADHYAY @ SHANKAR DUTT UPADHYAY
..... Petitioner

Through: Mr. Akhlak Ali, Adv.

versus

STATE (GNCT OF DELHI) & ANR Respondent
Through: Kamal Kr. Gheir, APP for State with
SI Mehrab Alam, PS Nabi Karim,
previously posted at PS Khajuri Khas.
Mr. J.S. Kanular, Adv. for R-2 with
R-2 in person.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
30.01.2018

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Vide the present petition, the petitioner seeks quashing of the FIR No.433/15, registered at PS Khajuri Khas, under Sections 354/323/354-B of Indian Penal Code, 1860 and all consequential proceedings emanating therefrom submitting to the effect that there is a settlement arrived at between the petitioners and the respondent no.2 pursuant to the compromise deed dated 22.11.2017 executed between the petitioner no.1 and the respondent no.2, copy of which is Ex.CW2/B.

The Investigating Officer of the case present today in Court has identified the petitioner Kailash Dutt Upadhyay @ Shankar Dutt Upadhyay, s/o Shri Keshav Dutt Upadhyay as being the accused arrayed in FIR No.433/15, registered at PS Khajuri Khas, under Sections 354/323/354-B of the Indian Penal Code, 1860 and has also identified the respondent no. 2 Ms.

X, d/o Shri Shiv Dutt Joshi as being the complainant thereof present today in
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Court. The proof of identity of the petitioner and the respondent no. 2 in the form of photocopies of their Aadhar Cards are on the record as Ex. CW1/A and Ex. CW1/B respectively, originals of which 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 compromise deed dated 22.11.2017 annexed to the petition as Ex. CW2/B voluntarily of her own accord without any duress, pressure or coercion from any quarter and further testified *inter alia* to the effect that pursuant to the settlement arrived at between herself and the petitioner who is her cousin sister's husband, she does not seek to pursue the proceedings any further in relation to the FIR No.433/15, registered at PS Khajuri Khas, under Sections 354/323/354-B of Indian Penal Code, 1860 and she does not oppose the prayer made by the petitioner seeking quashing of the said FIR nor does she want the petitioner to be punished in relation thereto.

The respondent no.2 has further testified to the effect that she is presently pursuing M.Com and works as a teacher.

Learned APP for the State submits that this being a family dispute between the petitioner and the respondent no.2 and in view of the settlement arrived at between the parties, there is no opposition on behalf of the State to the prayer made by the petitioner seeking quashing of the FIR in question.

Taking into account the statement made by the respondent no.2 and the settlement arrived at between the petitioner and the respondent no.2 and

the factum that respondent No.2 is apparently educated in view of her level of education and as there appears no reason to disbelieve her statement that she has arrived at the settlement with the petitioners voluntarily of her own

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accord without any duress, coercion or pressure from any quarter and also taking into account the non-opposition on behalf of the State, for maintenance of peace and harmony between the petitioner and the respondent no.2, it is considered appropriate to allow the prayer made by the petitioner seeking quashing of FIR No.433/15, registered at PS Khajuri Khas, under Sections 354/323/354-B of Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner.

In view thereof the FIR No.433/15, registered at PS Khajuri Khas, under Sections 354/323/354-B of Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner Kailash Dutt Upadhyay @ Shankar Dutt Upadhyay, s/o Shri Keshav Dutt Upadhyay are quashed.

The petition is disposed of.

ANU MALHOTRA, J

JANUARY 30, 2018

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Statement of CW1 : SI Mehrab Alam, PS Khajuri Khas now posted at Nabi Karim, New Delhi.

ON S.A.

I identify the petitioner Kailash Dutt Upadhyay @ Shankar Dutt Upadhyay, s/o Shri Keshav Dutt Upadhyay as being the accused arrayed in FIR No.433/15, registered at PS Khajuri Khas, under Sections 354/323/354-B of Indian Penal Code, 1860 and I also identify the respondent no. 2 Ms. X, d/o Shri Shiv Dutt Joshi as being the complainant of the FIR in question present today in Court. The proof of identity of the petitioner and the respondent no. 2 in the form of photocopies of their Aadhar Cards are on the record as Ex. CW1/A and Ex. CW1/B respectively. (Original seen and returned.)

ANU MALHOTRA, J

RO & AC

JANUARY 30, 2018

ON S.A.

I am presently studying M.Com and I also work as a teacher. I have come to this Court today to take back my case i.e. my complaint registered as an FIR against the petitioner Kailash Dutt Upadhyay @ Shankar Dutt Upadhyay (my cousin's husband) present today in Court at PS Khajuri Khas, under Sections Sections 354/323/354-B of Indian Penal Code, 1860. My affidavit annexed to the petition bears my signatures at points A and B on Ex. CW2/A, compromise deed dated 22.11.2017 bears my signatures at point A on Ex. CW2/B and I have signed both the documents voluntarily of my own accord without any duress or coercion from any quarter.

The petitioner being my cousin's husband, I do not want to pursue the proceedings in relation to the FIR no. 433/15, PS Khajuri Khas, under Sections 354/323/354-B of Indian Penal Code, 1860 registered on my complaint against him nor I do not want him to be punished and I do not oppose the prayer made by the petitioner seeking quashing of the said FIR.

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

ANU MALHOTRA, J**RO & AC****JANUARY 30, 2018**