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

+ **CRL.M.C. 418/2018**

MAJID & ANR

..... Petitioners

Through: Ms. Jyoti Gupta, Advocate.

versus

STATE & ANR

..... Respondents

Through: Mr. Kamal Kr. Ghei, APP for the
State with SI Sandeep Kumar, PS
Kalyanpuri.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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29.01.2018

CRL.M.A. 1606/2018

This is an application seeking exemption from filing certified copies of annexures, which is allowed subject to just exceptions.

CRL.M.C. 418/2018

Vide the present petition, the petitioners seek quashing of the FIR 71/2015, registered at PS Kalyanpuri under Sections 323/341/308/506/34 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 being the complainant of the said FIR. The petitioners and the respondent no. 2 are stated to be neighbours.

The Investigating Officer of the case present today in Court has identified petitioner no. 1 Majid, s/o Shri Mohd. Salim and petitioner no. 2 Mohd. Saqlain @ Asraf s/o Mohd. Sibten present in the court as being the accused arrayed in FIR No.71/2015, registered at PS Kalyanpuri, under Sections 323/341/308/506/34 of Indian Penal Code, 1860 and he also identified the respondent no. 2 Mr. Devender, s/o Shri Ramhet Singh as being the complainant of the FIR in question present today in Court. The proofs of identity of the petitioner no. 1 and petitioner no. 2 in the form of photocopies of their Aadhar Cards are on record as Ex. CW 1/A & Ex. CW 1/B respectively (originals seen and returned) and proof of identity of the respondent no.2 in the form of photocopy of his Aadhar Card is on record. (Original seen and returned).

The respondent no.2, the complainant of the said FIR in his examination on oath by the Court has affirmed having duly sworn his affidavit annexed to the petition as Ex. CW2/A and has testified to the effect that a settlement has been arrived at between the petitioners as they are his neighbours and he does not oppose the prayer made by the petitioners seeking quashing of the FIR in question and he has also submitted that he does not want the petitioners to be punished in relation thereto. On behalf of the State, it is submitted that as the injuries sustained by the complainant are healed now and they were stated to be simple in nature caused by a blunt object, the State does not oppose the prayer made by the petitioners seeking quashing of the FIR No.71/2015, registered at PS Kalyanpuri, under Sections 323/341/308/506/34 of Indian Penal Code, 1860.

The respondent no. 2 has stated that he has studied upto Standard 8th and he is doing the job of a jeweller and he has made this statement of his

own accord without any duress or coercion from any quarter.

In the aforesaid circumstances, as the petitioners and the respondent no. 2 are stated to be the neighbours and the matter has also been settled between them, in view of the verdict of the Hon'ble Supreme Court in ***Gian Singh vs. State of Punjab & Another***, (2012) 10 SCC 303, to the effect : -

*“58..... No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. **However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated.***

The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.” [Refer to B.S. Joshi, (2003) 4 SCC 675; Nikhil Merchant, (2008) 9 SCC 677 and Manoj Sharma, (2008) 16 SCC 1.]”

it is considered appropriate for the maintenance of peace and harmony between the parties to allow the prayer made by the petitioners seeking quashing of the FIR No.71/2015, registered at PS Kalyanpuri, under Sections 323/341/308/506/34 of Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioner, in view thereof the the FIR No.71/2015, registered at PS Kalyanpuri, under Sections 323/341/308/506/34 of Indian Penal Code, 1860 and all the consequential proceedings emanating therefrom against the petitioners, i.e., petitioner no. 1 Majid, s/o Shri Mohd. Salim and petitioner no. 2 Mohd. Saqlain @ Asraf s/o Mohd. Sibten are quashed.

The petition is disposed of.

The copy of the order be given *dasti*, as prayed.

ANU MALHOTRA, J

JANUARY 29, 2018

Neha Chopra

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Statement of CW1 : SI Sandeep Kumar, PS Kalyanpuri, Delhi.

ON S.A.

I identify the petitioner no. 1 Majid, s/o Shri Mohd. Salim and petitioner no. 2 Mohd. Saqlain @ Asraf s/o Mohd. Sibten present in the court as being the accused arrayed in FIR No.71/2015, registered at PS Kalyanpuri, under Sections 323/341/308/506/34 of Indian Penal Code, 1860 and I also identify the respondent no. 2 Mr. Devender, s/o Shri Ramhet Singh as being the complainant of the FIR in question present today in Court. The proofs of identity of the petitioner no. 1 and petitioner no. 2 in the form of photocopies of their Aadhar Cards are on record as Ex. CW 1/A & Ex. CW 1/B respectively (originals seen and returned) and proof of identity of the respondent no.2 in the form of photocopy of his Aadhar Card is on record (original seen and returned).

ANU MALHOTRA, J

RO & AC
JANUARY 29, 2018

CRL.M.C. 418/2018
MAJID & ANR.
Vs. STATE & ANR

Statement of CW2 : Mr. Devender Singh, s/o Shri Ramhet Singh, aged 50 years r/o House no. 9/56, Khichri Pur Colony, Mayur Vihar, East Delhi.

ON S.A.

I have studied up to standard 8th. I am doing a job of jeweller. I have come to this Court to take back my case i.e. my complaint registered as an FIR against petitioner no. 1 Majid and petitioner no. 2 Mohd. Saqlain @ Asraf present today in Court at PS Kalyanpuri, under Sections 323/341/308/506/34 of Indian Penal Code, 1860. My affidavit annexed to the petition bears my signatures at points A and B on Ex. CW2/A and I have signed it voluntarily of my own accord without any duress or coercion from any quarter. A settlement has been arrived at between me and the petitioner nos. 1 & 2 and the injuries sustained by me having been healed now and I do not want to proceed further in relation to FIR no. 71/2015, PS Kalyanpuri, under Sections 323/341/308/506/34 of Indian Penal Code, 1860 registered against the petitioners no. 1 & 2 on my complaint. In view of the said settlement, I do not want the petitioner nos. 1 & 2 to be punished in relation to the offences punishable under Section 323/341/308/506/34 of the Indian

Penal Code, 1860.

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

ANU MALHOTRA, J

**RO & AC
JANUARY 29, 2018**