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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 2947/2018 & CRL.M.A. 10423-10424/2018
KRISHNA KUMAR Petitioner
Through: Mr. Sameer Jain, Adv.

Versus

THE STATE (GOVT OF NCT OF DELHI)& ANR..... Respondent
Through: Mr. Sanjeev Sabharwal, APP for
State with SI Krishan Pal, PS CR
Park.
None for R-2.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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28.05.2018

Vide the present petition, the petitioner seeks quashing of FIR No.33/2018, PS CR Park, under Sections 174 Indian Penal Code, 1860 and all consequential proceedings emanating therefrom with the FIR having been registered on 23.04.2018 in view of the proceedings then pending in CC No.619350/16 before the Court of learned MM, South-East, Saket Court in which the petitioner appears to have not put in appearance. On behalf of the petitioner it has been submitted that in the proceedings in CC No. 619350/16 then pending before the learned MM South-East, Saket Court, a settlement was arrived at between the parties in mediation on 20.04.2016. It has been submitted on behalf of the petitioner that there was a subsequent deed of settlement also executed between the parties on 25.04.2018 i.e. between the respondent no.2 and the petitioner herein, whereby the petitioner had agreed to make a payment of sum of Rs.5.90 lakhs towards

full and final satisfaction of all claims qua CC No. 619350/16 in the Court of the learned MM, South-East, Saket. It has been submitted through the averments made in the petition that the said amount has been paid.

Placed on record also is the certified copy of the proceedings in CC No. 619350/16 of the learned MM (NI Act-02), South-East, Saket dated 28.04.2018 in which the statement of the complainant of the said case who is arrayed as the respondent no.2 to the present petition which indicates that she has stated that she sought to withdraw the Complaint Case No. 619350/16 in view of the settlement qua the cheque in question and that she would not seek liberty to file a fresh complaint in relation to the said case. In terms of the proceedings dated 28.04.2018 of the learned MM (NI Act-02), South-East, Saket in view of the statement of the complainant made therein, the accused i.e. the present petitioner has been acquitted in relation to the said case. It has been submitted through the petition that on 10.04.2017, the son of the petitioner having been hospitalized and diagnosed with complete renal failure, was admitted for his renal transplantation with the kidney having been donated by his mother i.e. the wife of the petitioner and that these circumstances prevented the petitioner from putting in appearance before the learned trial Court, as a consequence of which, the proceedings under Section 82 Cr.PC, 1973 were initiated against him, of which he learnt only on 05.04.2018 to the effect that he had been declared a proclaimed offender and that appropriate proceedings in compliance thereof had been initiated and thus the FIR in question i.e. FIR No.33/2018, PS CR Park dated 23.04.2018 was thus registered against him. The petitioner submits that his absence was completely bonafide due to the said circumstances and

that all claims between him and the complainant of the complaint case, pursuant to which the proceedings under Section 174 Indian Penal Code, 1860 were initiated, have since been settled and the petitioner had already been acquitted in relation thereto in view of the offence punishable under Section 138 of the Negotiable Instrument Act, 1881 being compoundable. It has been submitted on behalf of the petitioner that no useful purpose would be served by further continuation of the proceedings in the instant case.

On behalf of the State it has been submitted that in the circumstance of the case, there is no opposition to the prayer made by the petitioner seeking quashing of the FIR No.33/2018, PS CR Park, under Section 174 Indian Penal Code, 1860.

Taking into account the totality of the circumstances of the case, i.e. the factum that the proceedings qua CC No. 619350/16 which was earlier pending before the learned MM (NI Act-02), South-East, Saket have resulted into acquittal of the petitioner herein as an accused thereof in view of the compounding of the offences punishable under Section 138 of the Negotiable Instrument Act, 1881 the said proceedings under Section 174 Indian Penal Code, 1860 qua which the FIR No. 33/2018 dated 23.04.2018 was registered at PS CR Park as an aftermath thereof. It is apparent that no useful purpose would be served by further continuation of the proceedings in relation to the said FIR in view of the acquittal of the petitioner in relation to CC No. 619350/16, in view of his absence, proceedings were initiated against him, which absence of the petitioner, qua which the petitioner has submitted that he could not put in appearance due to the serious ailment of his son, FIR No. 33/2018, PS C R Park, under Section 174 Indian Penal

Code, 1860 and all consequential proceedings emanating therefrom against the petitioner are quashed.

ANU MALHOTRA, J

MAY 28, 2018

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