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

+ **W.P.(CRL) 3645/2016**

MAHENDER SINGH & ORS.

..... Petitioners

Represented by: Mr. Atul Varma, Advocate
with petitioners in person.

versus

STATE & ANR.

..... Respondents

Represented by: Mr. Rajesh Mahajan,
Additional Standing Counsel
for State with Ms. Jyoti
Babbar, Advocate with ASI
Ramesh Kumar, PS Malviya
Nagar.
Mr. Alok Kumar, Advocate for
respondent No.2 with
respondent No.2.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

06.09.2018

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1. By this petition, petitioners seek quashing of FIR No.683/2016 under Sections 323/356/379/34 IPC registered at PS Malviya Nagar on the complaint of respondent No.2 and the proceedings pursuant thereto on the ground that parties have amicably resolved their differences before the Mediation Centre, CAW Cell, Nanak Pura.

2. Brief background of the case is that petitioner No.5 was married to respondent No. 2 when differences arose between the parties. A complaint was filed by the petitioner No. 5 before CAW Cell, Nanak Pura under Sections 498A/406 IPC. While the conciliation proceedings were going on

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between the parties, respondent No.2 filed a complaint before the learned Metropolitan Magistrate along with an application under Section 156 (3) Cr.P.C. against the petitioners herein alleging that on 21st March, 2016 at about 9.00 PM he had gone to pick his wife, that is, petitioner No.5 from his in-laws house, that is, 454, PTS Colony, Malviya Nagar, New Delhi in his car. As soon as he entered the main gate of his in-laws' house, he saw his brother-in-law, father-in-law and mother-in-law. He wished them however they started abusing him and his mother-in-law took out her slipper and started hitting him. He was also beaten by the father-in-law when he wanted to run, he was hit by wooden stick by Balraj Singh and in the process the other brother Sandeep Singh also joined.

3. During the conciliatory proceedings before the CAW Cell, on 10th October, 2016 parties entered into a settlement annexed as Annexure –P2 on the following terms and conditions:

- “1. That both the parties have resolved all their matrimonial disputes with each other.*
- 2. That the Complainant has agreed to live with her husband at A-36, National Institute of Health & Family Welfare Campus near DDA Flats, Munirka, New Delhi-110067.*
- 3. That both the parties have agreed to discharge their matrimonial obligations towards each other diligently.*
- 4. That the parents and brother of complainant will not interfere in her matrimonial relation.*
- 5. That the First party shall file the petition for quashing of the FIR bearing No.683/2016 u/s 323/379/356/34 IPC in P.S. Malviya Nagar and the Second Party shall provide no objection affidavit whatever is required as per law within one month. The complainant undertakes to withdraw this complaint within one month from today.*

6. *Both parties are bound with the said agreement. The case is settled and closed and case file may be sent back to CAW Cell, Saket.*
7. *It is further agreed that the both the parties shall withdraw all their cases against each other and their family from the respective Courts, forum, and Police Stations etc.*
8. *That both the parties have arrived at the present settlement out of their free will and consent without any force, compulsion or coercion from any corner and both are signing the same after understanding the contents thereof which have been explained to them in vernacular language.*
9. *That both the parties have undertaken to remain bound by the terms of the present settlement.”*

4. Pursuant to the settlement the petitioner No.5 thus did not pursue her complaint under Sections 498A/406 and the respondent No.2 agreed to withdraw FIR No.683/2016 under Sections 323/379/356/34 IPC registered at PS Malviya Nagar as above. Both the parties also agreed to live together with no interference from the families.

5. Though the petitioner No.5 withdrew her complaint, however when the petitioners filed the present petition seeking quashing of the above noted FIR in question, respondent No.2 states that he is not agreeable to the quashing of the same.

6. Today again respondent No.2, who is present in Court and is identified by the learned counsel states that he does not wish to settle the matter and is not willing to the quashing of the FIR in question on the basis of the compromise.

7. Once the respondent No.2 is resiling from the settlement, this Court is

required to restore the parties to their original positions.

8. Consequently complaint case filed by Sunita Malik, petitioner No.5 before the CAW Cell, Nanak Pura is revived and action thereon will be taken in accordance with law.

9. During the pendency of the present petition, this Court had referred the parties to mediation however, due to adamant attitude of the respondent No.2 they could not live together and vide order dated 22nd February, 2018 this Court, to ensure that the two children born from the wedlock are looked up properly, directed respondent No.2 to pay a sum of ₹20,000/- per month for the maintenance of the two children. Though this order was passed on 22nd February, 2018, respondent No.2 is not complying with the said order in letter and spirit and a sum of ₹1.20 lakhs has been paid only on further specific directions of this court, despite the fact that parties were living separately from each other since 24th April, 2015 except for rejoining in between pursuant to the settlement proceedings before the CAW Cell for eight months. Petitioner No.5 would be at liberty to seek remedies in accordance with law including the maintenance for the children.

10. Petition is accordingly disposed of.

MUKTA GUPTA, J.

SEPTEMBER 06, 2018
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