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

+ CRL.M.C. 6303/2018 and Crl. M.A. 49432-49433/2018

MRS. ARTI KAPILA Petitioner

Through: Mr. Abhinav Jain, Advocate

versus

MR. ASHISH KAPILA & ANR. Respondents

Through

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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12.12.2018

After some hearing, the learned counsel for the petitioner, on instructions, submits that he may be permitted to withdraw the captioned petition and the applications filed therewith, the issue of right to residence and its effect on the right to maintenance allowance, fixed interim for the present, is still open to be decided by the Metropolitan Magistrate, his only apprehension being that the observations of the first appellate court in its decision dated 29.09.2018 in Crl. A. 66/2017 may not be treated as binding.

It is trite that the observations recorded by the first appellate court in decision on the issue of interim maintenance cannot be said to be conclusive or clinching on right to residence. The issue of right to residence will have to be considered by the trial Magistrate on the merits of the case.

The petition and the applications filed therewith are dismissed as withdrawn.

R.K.GAUBA, J

DECEMBER 12, 2018/yg