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

+ **W.P.(CRL) 2610/2019**

MANISH HEMCHANDRA DESAI & ANR. Petitioners

Through Mr Sameer Chandra, Mr Sandeep Tyagi,
Advocates.

versus

THE STATE (NCT OF DELHI) & ANR Respondents

Through SI Kamal Kishor, DIU/SP
Mr Sandeep Tyagi, Advocate for complainant.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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16.09.2019

CRL.M.A. 35928/2019

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(CRL) 2610/2019 & CRL.M.A. 35929/2019

3. The petitioners have filed the present petition, *inter alia*, praying that FIR No. 208/2019, under Sections 103/104 of the Trade Marks Act, 1999 registered at P.S. Hauz Khas, Delhi, and all proceedings emanating therefrom, be quashed.
4. It is pointed out that subsequent to the registration of the FIR, an offence under Section 420 of the Indian Penal Code, 1860 was also included against the petitioners.

5. Respondent no.2 is engaged in providing educational courses in fields such as a fashion design, interior design, aviation, etc. under the brand name “Fashionista”. The said mark is a registered trademark. The dispute between the said parties (petitioner and respondent no.2) relates to the use of the said trademark.

6. It is stated that prior to filing of the FIR, respondent no.2 had filed a Civil Suit being CS (Comm) No. 272/2019 before this Court for Permanent Injunction restraining infringement of trademarks, passing off, dilution of goodwill and rendition of accounts of profits/damages against the petitioners. In the said proceedings, the parties were referred to Delhi High Court Mediation and Conciliation Centre by an order dated 05.08.2019. The mediation efforts between the parties were successful and on 28.08.2019, a settlement agreement was entered into by the said parties before the Delhi High Court Mediation and Conciliation Centre. In terms of the said settlement, respondent no.2 has already accepted a sum of ₹10 lakhs plus applicable GST, as cost and damages in full and final settlement of all her pending/outstanding claims including all disputes. It is stated that on 04.09.2019, the Civil Suit was also decreed in terms of the settlement arrived at between the parties.

7. Petitioner no.1 is present in Court and is identified by the counsel. He has also filed a Special Power of Attorney by which he has been authorized to represent petitioner no.2. The said Special Power of Attorney executed by petitioner no.2 has been placed on record.

8. Respondent no.2 is present in Court and has been identified by the Investigating Officer (IO). Both the parties – petitioner no.1 and respondent

no.2 – state that they have resolved their disputes and the petitioners have no further grievance against respondent no.2. Respondent no.2 also states that she has no grievance against the petitioners and all her claims have been settled. In view of the statements made by petitioner no.1 and on behalf of the petitioner no.2 and respondent no.2, the present petition is allowed and FIR No. 208/2019 under Section 103/104 of the Trade Marks Act, 1999 read with Section 420 of the Indian Penal Code, 1860, registered at P.S. Hauz Khas, Delhi and all proceedings emanating therefrom are quashed.

9. The said parties (petitioner no.1 and respondent no.2) shall sign this order as an acknowledgment of their statements record herein.

10. The petition is disposed of. The pending application is disposed of.

VIBHU BAKHRU, J

SEPTEMBER 16, 2019

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